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КАФЕДРА ФІНАНСІВ ТА ІННОВАЦІЙНОГО МЕНЕДЖМЕНТУ

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RELIABLE PROTECTION OF FOREIGN INVESTMENTS IS THE KEY TO SUCCESS ON THE PATH TO SUSTAINABLE ECONOMIC DEVELOPMENT. (THEORETICAL ASPECT)

In recent years, a difficult political and economic situation has been noted in Ukraine, in which an urgent economic need is to attract investments in various areas of the economy. Both domestic and foreign capital. In these conditions, on the way to creating sustainable development, the regulator and the relevant institutions face the task of creating an appropriate investment-attractive climate in the country. The investment attractiveness of the recipient country for the investment of capital, along with other factors, is also determined by the level of guarantees of legal protection of foreign investments. As the President of Ukraine Volodymyr Zelenskyy notes, transparency and the rule of law are unconditional prerequisites for running a successful business, attracting investment and implementing new ideas[1]. Nevertheless, domestic special (profile) legislation on the protection of foreign investment is not yet fully focused on creating a positive impetus for sustainable economic development. Due to its definitely declarative nature and inconsistency with the conditions of the digital economy, it does not contribute to the active creation of a high credit of trust among investors. We can say that in some aspects it is more negative than positively affecting the investment attractiveness of the country. In addition to general legal norms, aspects of the legal protection of capitalists' rights are regulated by specialized (special) normative legal acts. These regulations indicate the specifics of the protection of the rights of direct subjects of capital investment. For example, the Law of Ukraine On Investment Activity" contains a definition of the definition of "investment protection" (Article 19). As you can see, the regulator establishes that the sovereign protective guarantees of capital investments do not cover aspects of the financial and economic activities of capital investors and their transfer of taxes, fees (mandatory payments) to the budget. At the same time, the promises and obligations of the state on the financial regulation of entrepreneurial activity, as well as the definition of financial privileges (tax, customs, and others) are key factors for the owner of capital when choosing the country for their successful investment in the economy. These factors are basic for the subsequent calculation of the effectiveness of the project investor's contribution to the economic potential of the recipient state. In other words, the aforementioned Law of Ukraine "On Investment Activity" is somewhat declarative in this part on sovereign guarantees. That ultimately deprives capital investors of using these guarantees for real protection of their legal rights and interests. On the other hand, it creates a negative image for attracting investment.A good investment climate that addresses the local institutional, regulatory and policy environment in which entrepreneurs and firms operate will stimulate economic growth. Thereby, giving firms the impetus to invest and improve labor productivity [5]. Although economic theory claims that there are many sources that contribute to long-term economic growth, more recent research confirms that fostering private-sector-led growth has much broader implications for the economy as a whole. For example, the promotion of entrepreneurship and development plays a key role in overcoming the problem of poverty and underdevelopment in developing countries. The concept of a good investment climate is closely related to the founding work of H.D. Soto [3] on property and owner rights. Using the example of Japan, he shows that its economic success can be largely attributed to the clear system of property rights created after World War II. In our opinion, it is the reliable protection of property rights and owners, together with the institutional component, that can serve as an important financial instrument of confidence of domestic and foreign investors in the sovereign investment policy of Ukraine on the way to creating sustainable development. It is believed that institutions are understood as the "rules of the game" in relation to economic performance. Institutions are postures, “individual-created constraints that structure political, economic, and social interactions. They consist of both informal restrictions (sanctions, taboos, customs, traditions and codes of conduct) and formal rules (constitutions, laws, property rights). " [3, p. 97-112].

Their purpose in society is to reduce ambiguity by creating a stable (but not necessarily effective) structure of human interaction. It has been substantiated that institutions affect the productivity of the economy by their influence on the cost of exchange and production. Together with the technology used, they determine the transaction and transformation (production) costs that make up the total costs. Therefore, they determine the profitability and feasibility of conducting economic activities) "[1, pp. 97-120]. It is important to emphasize that institutions would not exist if human interaction consisted only of harmonious solutions. Whereas institutions contribute to understanding the differences in economic performance between countries. The question arises whether the rules of doing business affect investments? The answer seems to be positive for the following reasons.

Inappropriate regulation is thought to be the result of ineffective institutions. And at the same time, regulation is an important financial instrument that conditions investment. Regulatory reforms that significantly reduce barriers to entry stimulate investment" [2, p.489-509]. It is known that the formal institutional sphere - laws, government and the judiciary - affects economic characteristics, determining (together with the applied technologies) transaction and production costs. Assuming that the main target of firms is to maximize profits, it is implicitly clear that a favorable institutional environment ensures that investors in the market earn income from their financial investments in the form of income or dividends. Against this backdrop, enforcing property rights and contract law is an important characteristic of an effective and efficient institutional framework.

Of particular importance in creating an investment climate for attracting foreign investment to the domestic economy is the Law of Ukraine "On the Protection of Foreign Investments in Ukraine" dated 10.09.1991 No. 1540a-XII. And although this law is short and laconic, since it contains only seven articles, since its adoption it has not undergone any innovations or changes. Therefore, there is an opinion that it does not reflect the current economic situation in Ukraine and needs to be updated. Also, the law does not contain a mechanism to protect the legal rights and interests of capital investors. This emphasizes its declarative orientation and the formal nature of regulation. At the same time, the practice of foreign investment has some negative examples of non-compliance with certain norms of the said law by the regulator itself. A negative example of the neglect of the provisions of this law by the regulatory financial body to guarantees for the protection of foreign investment is the 2017 National Bank of Ukraine resolution prohibiting the payment of dividends, as well as the introduction of stricter monitoring limiting the purchase and payment of foreign currency abroad. The presence of such restrictions forces potential investors to look for alternative and often very complex mechanisms of options with monetary investments outside the financial space of Ukraine No. 410. A similar negative practice was observed when the legislator created some provisions of the Law of Ukraine "On Amendments to the Law of Ukraine" On the State Budget of Ukraine for 2005 "and other legislative acts" of legislative acts: Law of Ukraine dated March 25, 2005 No. 2505-IV. The aforementioned Law abolished preferences and guarantees for capital investors in special economic zones, in priority development areas, as well as in conditions of other types of special order of entrepreneurial activity. Such innovations on the cancellation of preferences and guarantees in the context of a special order of entrepreneurial activity entailed a violation of the Basic Law of Ukraine (Article 8, Article 58 of the Constitution). They also came into conflict with Art. 15 of the Law of Ukraine "On the Foundations of State Regulatory Policy in the Sphere of Economic Activity" and other norms.

Undoubtedly, the above examples are evidence of non-fulfillment of the constitutional principle of the rule of law in our state. By virtue of Article 8 of the Constitution of Ukraine, the principle of the rule of law operates in Ukraine. A very difficult path lies ahead for its implementation. Which must be successfully passed without stopping.

The conclusions are as follows.

1. The investment policy of any power must meet modern challenges, national strategic priorities and interests.
2. On the way to the formation of sustainable economic development of Ukraine and improving the well-being of the population, the strategic task is to create a positive impulse for a dynamic economy through the implementation of the model of the investment driver of the state.
3. For which it is necessary to create an appropriate institutional environment favorable to attracting investment flows. Including optimization of the regulatory and legal system for the protection of foreign investment based on the establishment of the principle of the rule of law in society.
4. To improve the investment climate in Ukraine, it is necessary to do everything possible so that foreign investors receive the highest credit of confidence to invest in the economy of our country.

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