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SOME ASPECTS OF INTERNATIONAL LEGAL PROTECTION OF FOREIGN INVESTMENT IN A SPECIAL LEGAL PERIOD

The scientific work is devoted to the development of issues of international legal protection of foreign investments as an important tool for creating effective economic dynamics based on the principle of the rule of law in the Special Legal Period.

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Mobilization of material, physical and human resources, division of labor, distribution of assets, economies of scale, technological progress and innovation in conjunction with entrepreneurial activity play an important role in creating effective economic activity both under normal conditions and in the Special Legal Period. Common tax and financial instruments, as well as exchange rates, appear to have limited impact on resource mobilization, investment and economic growth. Extremely unfavorable political conditions, including the Special Legal Period, can lead to a macroeconomic course that suppresses investment, overall factor productivity, economic growth and the efficiency of the economy as a whole. Unfortunately, ineffective strategies can be implemented over longer periods of time than might be expected. Because they tend to bring great benefits to small influential financial-industrial groups, and their costs are actually distributed in small quantities per capita among many people. This circumstance is cited as one of the main causes of income inequality, which increases even more in times of crisis. At the same time, as noted by some researchers [1, 1015–59;2], when political institutions are under control, the impact of policy on economic growth is negligible. According to Feng, Yi, factors such as political repression, uncertainty and political instability hinder economic growth.

Democracy also, albeit indirectly, influences growth by providing a predictable transfer of power in the political system [3]. It is believed that the new Constitution of Ukraine has put into effect the liberal-democratic doctrine of the development of our society [4, 9]. To exclude the revival of the socialist system, democracy is the only solution for society [5-6]. The scientific concept of Jan-Urban Sandal highlights the bright ability of an individual entrepreneur to contribute to the democratic vector of development and progress by introducing innovations into the economic potential[7]. Despite a significant number of scientific developments that have established that the entrepreneur is the driving force in the social system, however, we do not find any argument that could be used as a political guide, since the entrepreneur and politics are incompatible [8].

It is clear that market institutions in the successful industrialized countries of East Asia are at best capable and at worst weak and underserved. Research interest is manifested in advancing the problem of understanding how various institutions with diverse capabilities, abilities and degrees of maturity, with the help of a strong development-oriented state, can achieve favorable results. The basis of these achievements is the application of local knowledge, which is usually possessed by politicians in the world community, where conditions in no country in the above-mentioned region correspond to ideal conditions. Some researchers considered the economy as an institution of an equilibrium system with a limited amount of raw materials and labor resources. They showed the financial and monetary potential as a neutral link. The main goal of their economic research was to find a so-called production mechanism that could optimally use resources to maximize the profits of economic entities (in the field of microeconomics) or social welfare (in the field of macroeconomics). modeled on the basis of mathematical formulas. It is believed that the optimal economic policy of the state or, in other words, state economic and legal regulation, should have become the basis that unites the interests of these areas. George Soros, emphasizing the unconditional role of state regulation of the economy, noted back in the 90s of the last century that market institutions, having full power, actually create chaos even in purely economic, informational matters. However ultimately they can lead to the overthrow of the capitalist system. It is no coincidence that the mentioned author convincingly insisted on the inevitable need for a balanced and thoughtful state economic policy [9, 23].

The English economist John Maynard Keynes also believed that market mechanisms at a certain stage in the historical development of the national and global economy are no longer able to provide the necessary balance. This inevitably leads to the need for a certain state intervention in the regulation of economic activity, and requires a reasonable economic policy of the state. This intervention in economic development, in his opinion, can occur both directly through the instruments of non-state regulation, and indirectly through monetary institutions. Being by nature a philosopher and an overnight economist, as well as a developer of characters and mores, Keynes constantly aimed his efforts at studying the problems of the purpose of an individual's economic activity. Answering the question of predestination, economics, Keynes predicted a reduction in the length of the working day on the basis of an increase in the productivity of labor processes as a condition for people's lives to become "reasonable, pleasant and worthy." According to him, the individual's striving for the moral improvement of the world is the most important meaning of his economic enterprise. Keynes focused on studying the relationships and proportions between total national economic values: national income, savings, investment, and aggregate demand. He saw the main task in achieving optimal national economic proportions, including crisis and war periods of state and economic development [10].

Since the 1970s, the microeconomic approach has dominated economic theory. An economic entity (consumer or firm) is placed at the center of analysis, which maximizes its profit. It was assumed that all business entities operate in conditions of perfect competition, where the efficiency of the company's functioning was identified (and not without reason) with the efficiency of the economy as a whole. This approach presupposed a rational distribution of resources in the national economy and did not allow for the possibility of a long-term imbalance in the economic system. These postulates were called into question by John Maynard Keynes, whose name in economic theory is associated with a return to the analysis of macroeconomic problems. Keynes criticized Say's "law of markets", which was not denied by the neoclassicists. The main premise of Keynes's theory was the belief that the dynamics of the production of national income and the level of employment are determined not directly by supply factors, but by demand factors that ensure the realization of these resources. The influence of supply factors is indirect, therefore, although it manifests itself, it is only in a very long term. In Keynes's theory, the demand generated by direct factors of demand is called "effective demand" (the sum of consumer spending and investment). Keynes devoted much of his famous work, The General Theory of Employment, Interest and Money, published in 1936[10], to analysis of the factors that determine the dynamics of personal consumption and investment. According to Keynes, the growth of personal consumption is a stable function of income growth, while the role of other factors is insignificant. It is the investment component of effective demand that plays a decisive role in determining the level of national income and employment. Keynes considered the size of investment the main factor in effective demand and, as a consequence, the growth of national income. But ensuring the normal amount of investment comes down to the problem of converting all savings into real investment. The entrepreneur continues the process of investing, while the marginal efficiency of investments remains above the interest rate. Having shown that in a dynamically developing economy there is a tendency for savings to grow faster than investment, Keynes focused on the problem of stimulating investment. According to Keynes, it is the state that should make initial investments in the face of insufficient effective demand from consumers and the private sector of the economy, while not neglecting indirect methods of stimulating investment in order to return the economy to a state of equilibrium. It was on the state that J. Keynes laid the responsibility for maintaining global equilibrium in the economy and for ensuring economic growth. Considering that if institutional factors do not stimulate resource mobilization and growth, the state can take the lead in mobilizing savings and increasing public investment. However, from the World Bank's point of view, investments made by the government or secured by a direct government financial loan are considered risky and wasteful. At the same time, in China, Malaysia and Singapore, the lion's share of

investment, both in the past and today, is carried out by government agencies. And in some countries, for example, in
Republic of Korea, Taiwan (China), regulated investments of state-owned banks have largely become the accumulator of industrialization. By investing investment assets in the economy of the recipient state, the investor expects to protect his assets from illegal confiscation and seeks to increase them based on legitimate expectations. This issue is especially relevant during the Economic Activity in the Special Legal Period. In this regard, the definition of legitimate expectations (legal certainty), which is of most interest to foreign investors and other entrepreneurs, is an important aspect of the rule of law and fairness in economic relations. Legal certainty means that obligations or promises made by the state to individuals must generally be fulfilled (the concept of "legal expectations")[11].

The judicial practice of considering investment disputes with a foreign investor contains sufficient arguments for the interpretation of legal certainty directly in the judgments of investment arbitration. An example is the case of ICSID Tecmed v. Mexico [12] in the plane of the Spanish-Mexican BIT. Using a kind of standard of fair and equitable treatment of the relationship between the contributor of a hazardous waste storage facility and the control authority, the ICSID arbitration focused on the concept of legitimate expectations as part of fair and equitable treatment. On this basis, he decided that the standard referred to ... causes ... an appeal that does not affect the essential expectations that he took into account. investor of foreign capital when investing. This investor expects the hosting power to take a coherent approach, avoiding ambiguity and acting quite openly in dealing with a foreign investor... The investor also expects the hosting power to avoid arbitrary response of any previously established rules or permissions accepted by the which the depositor has counted as conditions for the performance of his obligations.... The depositor also expects the hosting Power to apply legal instruments governing the investment or operation of the depositor in accordance with the function normally assigned to such instruments and not to deprive the depositor of his investment without the required compensation (compensation). These messages are clear structural parallels between fair and equitable treatment and how the rule of law is applied to administrative relations at the national level to protect the legitimate expectations of private actors.

We find a direct practical manifestation of the rule of law principle at the conceptual level in the sphere of economic relations when considering aspects of investment agreements and arbitration under investment contracts. In this case, international investment protection law acts as a tool for strengthening the rule of law. Analyzing the target characteristics of investment contracts from the position of the rule of law, we can see their following main vectors. They are directly linked to the rule of law toolkit. In the first place, the protection and promotion of foreign investment is highlighted. Next we find the liberalization of the market and the establishment of business economic ties between the powers of the agreement. Ultimately, however, the rise in economic prosperity in the countries of the agreement is long term[13].

From this it follows that the protection and promotion of foreign investments, including in the Special Legal Period, are aimed primarily at creating a positive impetus for economic dynamics, and secondly, at the qualitative strengthening of human capital. Rule of law functions can be seen in parallel with these goals.

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