PRINCIPLES OF OWNERSHIP OF BUSINESS SUBJECTS IN THE EXPERIENCE OF FOREIGN COUNTRIES

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Annotation: In this scientific article, the description of the legal regime of the property bases of business entities in the experience of foreign countries is compared and analyzed based on the experience of advanced foreign countries and the practice of applying national law.

Key words: business, regime, foreign, basis, experience, property.

In the legislation of foreign countries, the legal basis for the activities of business entities, including their property, acquires certain specifics. In foreign countries, which have developed differently from the legal system of Uzbekistan, the sphere of business law includes any norms that regulate economic relations and relate to the interests of entrepreneurs. Such a broad interpretation does not require limiting the subject of business law within the scope of the law. Therefore, according to the legislation of foreign countries, business law includes such norms that , according to the traditional interpretation formed in the jurisprudence of Uzbekistan, these norms are sources of other areas of law outside business (for example, ecology, land, labor law). In this case, the sphere of business includes norms related to the cleanliness of facilities, product safety, sanitary and epidemiological requirements, and technical requirements for product production.

Foreign legislation seeks to maintain a balance between creditors, shareholders, employees and public interests. Foreign legislation pays much attention to the fact that an enterprise is an independent type of business asset. In this regard, it is enough to recall the possibility of pledging an enterprise as a floating charge under British law or, if antitrust approval is required for companies, the requirements of the European Union authorities for the separation and sale of separate enterprises with a common line of business.

The legislation of developed Western European countries usually does not require an individual entrepreneur to register in order to carry out his activities. This is an additional restriction on economic freedom, which is not included in the general obligation to pay taxes and notify the relevant state body about his place of residence. It is not without reason that there is no registration requirement for a person holding a liberal profession (doctor, lawyer, auditor, architect). In order for these persons to obtain the right to operate in the territory of the relevant state, it is enough for them to successfully pass a qualification exam in professional associations. It is precisely the presence of knowledge and recognition of colleagues (not registration) that is a guarantee of consumer rights protection in these services. This approach is also characteristic of Uzbekistan.

Legal norms in the field of economics tend to specialize in specific sectors of production or types of activity. As a result, the following specialized areas of law are separately regulated and studied: company law, competition law, banking law, energy law, financial law, insurance law, marketing law, telecommunications law, and so on.

Legal regulation of business activities, in particular, the regime of property of business entities, is usually carried out using a large array of legal norms. In order to fully understand the main sources of business law in foreign countries, it is advisable to classify them according to the main areas of business legal regulation. The legislation regulating the general sphere of trade can include the German and French commercial codes, the United States Uniform Commercial Code. The following important documents of corporate law can be included: the US Model Law on Business Corporations of 1994, the UK Companies Act of 2006, the German Limited Liability Companies Act of 1898 and the Joint Stock Companies Act of 1965, and the French Commercial Companies Act of 1966.

European Union (EU) corporate law, which consists of 13 directives, also plays a special role in determining the legal regime of business entities' property. The document that laid the foundation for European corporate law is the First Directive No. 68/151/EC of 9 March 1968, which regulates the dissemination of information in companies, the maintenance of a company register, the validity of company obligations, and the grounds for declaring a company invalid (nullity of the company).

The second EU directive 77/91/EC of 13 December 1976 regulates the maintenance of company statutes, the minimum amount of authorized capital (25 thousand euros), the conditions for the initial issue of shares, the acquisition of a company's own shares, the increase and decrease of capital, the implementation of major transactions with company assets, the payment of dividends, and the protection of creditors' rights in the event of a loss of capital. Other EU directives regulate the mergers and divisions of companies, the content of their annual reports, the organization of company management, the functions and responsibilities of company auditors, the consolidation of accounts, and the status of a single-person company. The most important EU directive of recent years is Directive 2004/25/EC of the European Parliament and of the Council of 24 April 2004 on mergers, which aims to protect shareholders against unfair mergers.

The second stage of the development of European corporate law began with the adoption of Regulation (EC) No. 2157/2001 of the Council of 8 October 2001 on the Statute for a European Company. This regulation provides for a special organizational and legal form for European businesses with a cross-border dimension and allows to avoid conflicts on corporate governance issues that operate in different EU member states. The organization and form of business conduct as a European company is necessary in order to better match the economic substance (economic unit) and the legal form (legal unit) of the business activity.

In the Anglo-American legal family, in addition to the Companies Act, corporate governance codes are widely used by the courts in their countries to resolve disputes. These documents are the result of joint activities of academic institutions and associations of practitioners (for example, the American Law Institute and the American Bar Association). Corporate codes are aimed at fully regulating the relations between shareholders, directors and managers in corporations and companies, their rights, obligations and responsibilities.

An idea of the legislation aimed at regulating relations in the capital market can be obtained from the US Securities Act of 1933, the Securities Market Act of 1934, the Investment Company Act of 1940, the Securities Markets Act of 1970, and the Banking Act of 1979 and 1987 of Great Britain. The main document of the European Union aimed at harmonizing the legislation on banking activities is the Second Directive No. 89/646/EEC of 1898 on the

coordination of laws, regulations and administrative provisions relating to the organization and activity of credit institutions. The Basel Committee on Banking Supervision, an international cooperation body for the formation of banking legislation in Western European countries, is the recommendation. The Committee's goal is to develop common approaches to banking regulation and supervision through the exchange of information and views with the participation of state banking supervision bodies and credit institutions. The Committee's main documents include the Principles for the Supervision of Foreign Banking Institutions, the Fundamental Principles of Effective Banking Supervision, and the Capital Adequacy Standards.

Bankruptcy procedures are regulated by special legislative acts, the US Bankruptcy Code of 1978, the UK Insolvency Act of 1986, the French Bankruptcy Law No. 2005-845 of 2005, and the German Bankruptcy Law of 1994. The German Cartel Act of 1957 and the French Law on Pricing and Freedom of Competition of December 1, 1986 are used to ensure freedom of competition. These include the UK Merger Regulation Code of 1986, US antitrust law, the Sherman Act of 1890 and the Clayton Act of 1914.

In developed foreign countries, the main sources of law are legal acts, precedents (significant court decisions) and legal customs. Along with laws, executive acts of state bodies that regulate and control various areas of entrepreneurship, including the legal regime of their property, are also of great importance. Despite the fact that the constitutions of almost all European countries stipulate that the freedom of citizens can be restricted only on the basis of law, in practice restrictions on the freedom of entrepreneurship are carried out at the level of executive authority acts. In this sense, the legislation of the European Union occupies a special place. With the exception of the Treaty establishing the European Community (Treaty of Rome) and some intergovernmental agreements and conventions, the main mass of regulatory acts is adopted by the executive bodies of the Community - the European Council of Ministers and the European Commission. The Council issues regulations that are directly applicable in the territory of the EU member states, and the Commission adopts directives to harmonize and approximate the legislation of the member states on one or another issue of the functioning of the single European market. It should be noted that these bodies issue recommendations and explanations (communications) of certain rules, legal institutions and terms of the Treaty establishing the EU, which are an exemplary example of the official interpretation of this regulatory document. It is worth noting that legal acts of a recommendatory nature are widespread in foreign countries. Precedents are mainly characteristic of the countries of Anglo-American law, but for the countries of continental Europe, the role of courts (especially higher courts) in shaping the law has been increasing in recent years. In the absence of a relevant legal norm in resolving a particular dispute or when its content is unclear, the court has an excellent opportunity to determine the principles for regulating this or that relationship, to check the possibility of applying this or that doctrine, and to more clearly determine the essence of the mutual relations of the parties to the dispute. The international community has adopted a tendency to follow the significant decisions of the supreme courts of other countries and use them in its own practice. In this regard, the US Supreme Court and the German Constitutional Court are considered to have high authority. Among international courts, the European Court of Justice enjoys special authority and respect, since this court has formed general principles of law based on the protection of economic freedom and considers the relevant issue when there

are unjustified interferences with the property rights of private individuals or when decisions are made by state bodies that have led to negative economic consequences.

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