DESCRIPTION OF THE LEGAL REGIME OF THE PROPERTY BASES OF BUSINESS ENTITIES 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.

Ensuring appropriate conditions for conducting business activities, improving the legal regime of relevant types of property is one of the priority tasks for every country that seeks sustainable economic development. In ensuring market conditions for business, the main emphasis is on reducing state intervention in the economy. Economic theory has long recognized that the dependence of business on decisions of government bodies distorts the market nature of the economy, reduces its efficiency, and this, in turn, can have a negative impact on society as a whole. Due to the recognition that corruption is a destructive element of the economy, the basis was created for the adoption of a number of laws against corruption. In particular, the US Foreign Corrupt Practices Act of 1977 prohibits entrepreneurs from directly or indirectly giving money or other gifts to government officials or political parties in order to influence decision-making in the interests of the entrepreneur.

Although developed foreign countries do not have a single approach to the level of state intervention in the economy, their basic positions are largely consistent. In particular, in all developed foreign countries, state authorities are given the right to control the pricing policy of companies with a dominant position in the market. In EU law, for example, the fact that this right is granted to the European Commission is based on the principle of a single European market as a guarantee of economic stability. Also, one of the generally accepted measures is the dependence of banks on their credit policy and, in turn, on their economic situation, i.e., on changes in the refinancing rate or the capital adequacy ratio of the bank itself.

The principle of representation of acceptable economic reality is aimed at eliminating the negative impact of legislation on business activity . The economy of the developed countries of the West is based on market relations, therefore, legislators should ensure that legal norms do not harm, but on the contrary, help the economic laws of the market to be implemented effectively. Based on this principle, the Anglo --American legal system distinguishes between private and public companies (UK) and corporations (US). Such division is carried out not only according to the amount of paid-up capital and the number of participants, but also according to the principle of organization and operation goals. While in private companies active personal participation in management is typical for participants, public corporations are managed by hired managers. The acquisition of the status of a private company as a public company means an increase in capital of this company and a constant expansion of its activities, which in turn allows attracting additional investments. Therefore, only public companies and corporations

can be listed on a stock exchange or offer their securities publicly (to an unlimited number of persons) on an exchange or over-the-counter. The Companies Act 2006 of Great Britain distinguishes between private and public companies based on their capital, i.e. their property regime. The requirement to take urgent measures by shareholders to restore capital in the event of a ban on the payment of dividends or a decrease in net assets (section 831 of this Act) applies only to public companies.

The legislation of foreign countries on securities has long since abandoned the principle of strictness of form. In particular, Anglo-American law defines the concept of “securities”, which is a term close to the “issued security” used in Uzbek law. From a business point of view, this term implies the following: 1) securities are intended for investment, 2) they combine the investments of several persons, 3) the purpose of investing is to receive income from them, 4) the success of the investment depends on a third party (manager).

Principles and Purpose of Bankruptcy Law The Anglo-American and Romano-Germanic legal systems have distinct economic interests in mind while setting different priorities for achieving that goal. For example, the UK's 1986 Insolvency Act is the opposite, while French legislation aims first to save businesses and jobs and then to satisfy creditors. The fact that the principle of non-payment (debts of the debtor are greater than his assets) instead of the principle of inability to pay (the inability to pay monetary obligations in the normal course of business) as a criterion of insolvency means that the system of bankruptcy norms is closer to economic realities.

The principle of the appropriate expression of the economic essence of relations in law means that in regulating business relations, law should not only be based on the idea of equality of the contracting parties, but also take into account the specific interests of each subject of this relationship, the socio-social (public) interests associated with these private interests, and the distribution of economic risks between these subjects in accordance with these interests.

In general, each of the principles analyzed above in the legislation of foreign countries stems from real economic reality and is being improved due to innovative economic development. In this regard, it would be advisable to identify principles that directly apply in the legal regulation of entrepreneurial activity and introduce mechanisms for their strict implementation.

As is known, the interests of creditors are ensured by forming the authorized capital in the property of business entities and determining its minimum amount, thereby ensuring the liability of business entities for their obligations to a certain extent. Although there is a tendency in the legislation of foreign countries to clearly determine the minimum amount of authorized capital of business entities, in particular, business companies, there are different approaches to determining this amount. In a number of countries, there is one form of closed corporations: in Germany, Gesellschaft mit beschrankter Haftung (GmbH), in France, société à responsabilité limitée (SARL), in Italy, società a responsabilité limitata (SRL), in the Netherlands, besloten vennootschap (BV). In Belgium, a limited liability company corresponds to a private limited liability company, in Luxembourg, a limited liability company, in Portugal - a joint stock company, in Anglo-American law - a private company and a close corporation. As a rule, they have all the characteristics of a closed corporation as opposed to a "public company" and are not allowed to be traded freely on the public market.

In Germany, the establishment of a GmbH is regulated by the Limited Liability Company Act of April 20, 1892, and these companies require a minimum authorized capital of €25,000 and a minimum share of €1 to participate. Each euro in authorized capital is considered to be worth one vote at the general meeting of shareholders. According to the German law "Modernizing Limited Liability Company Law and Combating Abuses" (MoMiG) of October 23, 2008, it became possible to establish a type of limited liability company – the Unternehmergesellschaft (UG), which does not require a minimum authorized capital (sometimes such companies are also called "mini GmbH" or "GmbH-lite"). The current UG can also be established with a capital of €1, since under German law the minimum value of a share in the company's capital is €1. This company must be named "Unternehmergesellschaft (haftungsbeschrankt)" or "UG (haftungsbeschrankt)" (§ 5a I). However, the founder must subsequently carry out commercial activities and increase the authorized capital to the minimum amount set for an LLC - 25,000 euros. After this amount of authorized capital is formed, the company must be renamed "limited liability company" (§ 5a IV). Contributions can be made in the form of cash or property (in whole or in part). If property is contributed as a contribution, its value must be reflected in the memorandum of association. In other countries belonging to the German law group, the minimum authorized capital varies. In Austria, the minimum authorized capital of a LLC (Gesellschaft mit beschränkter Haftung, GmbH) is 35,000 euros; in Hungary, it is 12,500 euros; In Greece, it is 18,000 euros. In Croatia, the authorized capital must be expressed in the national currency - "kun". Its minimum amount is equal to 20,000 days (about 2,700 euros). In the Czech Republic, according to the Law "On Trade Corporations", the participants of the LLC are liable for the part of their share in the debts of the company. In this case, the share of membership in the LLC is equal to 1 Czech crown, and the minimum amount of authorized capital is not limited.

In France, LLCs are a widely used organizational and legal form for small and medium-sized businesses, and there is no minimum requirement for authorized capital for their formation. The amount of authorized capital is determined solely by the charter.

In other countries belonging to the Roman law group, the minimum amount of authorized capital of an LLC is as follows: in Belgium - 18,600 euros, in Italy - 10,000 euros, in Spain - 3,000 euros. In the Netherlands, the minimum amount of authorized capital of an LLC is not limited.

In England, there is a Limited Liability Partnership (LLP). The activities of a limited liability partnership are regulated by the following regulatory legal acts: Limited Liability Partnership Act 2000; Limited Liability Partnership Regulations 2001; Companies Act 1985; Insolvency Act 1986; Financial Services and Markets Act 2000. There is no requirement for a minimum share capital for an LLP.

In most CIS countries, the minimum amount of the authorized capital of an LLC is established at the legislative level. In particular, according to Article 14 of the Russian Law No. 14-FZ "On Limited Liability Companies" dated February 8, 1998, the authorized capital of a company must not be less than ten thousand rubles. According to Part 2 of Article 23 of the Law of Kazakhstan No. 220-I "On Limited Liability and Additional Liability Companies" dated April 22, 1998, the initial amount of the authorized capital of a limited liability company must be equal to the amount of the founders' shares and not less than one hundred times the monthly calculation indices.

The minimum amount of authorized capital for LLCs in Uzbekistan was established by the Law of the Republic of Uzbekistan No. ZURQ-531 dated March 20, 2019 , which states that "the minimum amount of the authorized capital (authorized capital) of a company may be determined in the license requirements." In our opinion, this change was made in order to support entrepreneurship. However, this may cause problems in ensuring and protecting the rights of LLC creditors and determining the liability of the company for its obligations.

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