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IMPROVEMENT OF ECONOMIC LEGISLATION OF UKRAINE AT THE MODERN STAGE (EUROPEAN EXPERIENCE)

Abstract: *Modernization, improvement (reform) of legal regulation of relations in the sphere of economy have acquired particular relevance in connection with such problems as the abolition of the Commercial Code of Ukraine, the expected renewal of Ukraine, as well as preparation for accession to the EU. The article substantiates the idea that the abolition of the code harmonizes Ukrainian legislation with European standards. It is illustrated that in many civilized countries such codes actually exist, are called commercial or entrepreneurial, as evidenced by the commercial codes of France, Turkey, Estonia, Latvia, the commercial company code of Portugal, the entrepreneurial codes of Austria, the Republic of Kazakhstan, etc. In Germany, the code regulating economic relations is really called commercial, the German Commercial Code. Emphasizing the further improvement of legal regulation in the economic sphere in Ukraine, in the direction aimed at harmonizing the relevant legal norms with the standards of the European Union, the authors cite, as an example, the Law “On Ensuring Transparency in the Extractive Industries”. It is substantiated that it is thanks to clear legal regulation of the most problematic issues, in particular, transparency, corruption, etc., that investors will have confidence in the longevity of projects, achieving political stability in Ukraine, control over corruption, and creating a transparent legal environment for investors.*

Keywords: *incorporation of economic legislation, modernization, improvement, public authority, accession to the EU, organizational and legal support, system.*

Introduction. The economic legislation of Ukraine is understood as a set of legal norms that regulate relations that arise between business entities, including private individuals, regarding property relations (an example of the latter is bankruptcy of individuals). Modernization, improvement (reform) of legal regulation of relations in the economic sphere have become particularly relevant in connection with such problems as the abolition of the Economic Code of Ukraine (ECU) in August 2025, the expected renewal of Ukraine, as well as preparation for accession to the EU.

The state of development of the issue. The problems of improving and reforming economic legislation have been considered from various positions in scientific works and studies by such scientists as O. Vinnyk, S. Demchenko, B. Derevyanko, R. Dzhabrailov, V. Dzhun, D. Zadykhaylo, O. Zeldina, O. Kibenko, V. Korstei, O. Podtserkovny, I. Spasibo-Fateeva, O. Tytova, V. Ustimenko, O. Shapovalova, V. Shcherbyna, and others.

The **purpose** of the article is to identify ways to modernize economic legislation, to propose a systemic, problem-oriented approach instead of the existing bureaucratic one.

Presentation of the main material. The reform aimed at modernizing the legal regulation of economic relations should be focused on harmonizing the relevant legal norms with the standards of the European Union. At the same time, many of the deputies who voted for the abolition of the code believed that by abolishing the code, they would thereby harmonize Ukrainian legislation with European standards, that is, they proceeded from the misconception that supposedly such codes do not exist in Europe at all, except for individual countries (Germany). But there, “in them” it is called trade, commercial and has nothing to do with the Civil Code. This is not so. Considering these issues, O. Podtserkovny [1] correctly noted that in many countries such codes are indeed called commercial or entrepreneurial, as evidenced by the commercial codes of France, Turkey, Estonia, Latvia, the Code of Commercial Companies of Portugal (in effect since 1986) or the entrepreneurial codes of Austria or the Republic of Kazakhstan (2015). In Germany, the code regulating economic relations is indeed called trade, or rather the German Commercial Code (German: *Handelsgesetzbuch*, abbreviated HGB). But constantly updating the codification of business rules, the Germans departed from the original name - “Trade code”), giving the commercial code the modern name “Commercial code”). The Spanish Parliament approved the new Commercial Code, presented by the Government to replace the old one from 1885, etc. At the same time, another trend is becoming increasingly evident - the emergence of a new integrative direction - economic law of European countries. The most striking example of such a legal phenomenon is the Economic Code of the Kingdom of Belgium, which came into force in 2014. Moreover, Belgium in this context can be perceived as the center of legal thought of European countries, since the offices of the Council of Europe, NATO, the European Venture Capital Association and other European organizations are located in Brussels, not to mention the stable and strong economy of the country, which simply objectively positively affects the formation of leading legal policy in the specified area - the economy.

Corruption as a negative social factor of public life is a significant obstacle to the development of the rule of law and civil society in Ukraine, hinders democratic transformations, nullifies important reform initiatives, and does not contribute to the positive image of Ukraine in international relations. The Law of Ukraine “On the Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014–2017” No. 1699-VII dated October 14, 2014 emphasizes that solving the problem of corruption is one of the priorities for Ukrainian society at the current stage of the state’s development. Therefore, overcoming corruption is an extremely urgent problem. Its solution should be facilitated by active anti-corruption activities, appropriate legislative support, decisive actions of government structures, state leadership and anti-corruption bodies. As stated in the Anti-Corruption Strategy, one of the most important factors in overcoming corruption is the population's attitude towards this problem. According to the results of research conducted in Ukraine in recent years, more than half of the population is inclined to commit corruption offenses if this can contribute to solving the problem. In addition, a significant part of the population does not classify certain actions as corrupt, realizing that such behavior does not comply with the norms of morality or professional ethics.

In the direction of harmonizing relevant legal norms with European Union standards, for example, the Law “On Ensuring Transparency in the Extractive Industries” was adopted. [2] The Law defines the legal principles for regulating and organizing the collection, disclosure and dissemination of information in order to ensure transparency and prevent corruption in the extractive industries in Ukraine. The law is aimed at fulfilling Ukraine's international obligations in connection with joining the Extractive Industries Transparency Initiative (EITI), as well as at implementing European Union legislation in terms of increasing the transparency of economic activities in the extractive industries, namely Directive 2013/34/EU of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of companies, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, Directive 2013/50/EU of the European Parliament and of the Council amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities

are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered for sale to private persons or admitted to trading, and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC. The Law applies to all economic entities operating in the extractive industries, parent companies in the extractive industries, regardless of their organizational and legal forms and forms of ownership, to the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex, the central executive body that implements state policy in the field of geological exploration and rational use of subsoil, as well as to recipients of payments. According to Art. 3 of the Law, the purpose of information disclosure in the extractive industries is to provide the public with access to complete and objective information on payments made by business entities operating in the extractive industries for the benefit of recipients of payments, to create the prerequisites for socially responsible use by such entities of minerals of national importance, as well as for public familiarization and discussion of issues related to the use and management by the state and territorial communities of minerals of national importance. Article 4 defines the subjects of information disclosure. The law includes business entities operating in the extractive industries as such subjects. These include, in particular, parent enterprises in the extractive industries; recipients of payments; the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex; the central executive body that implements state policy in the field of geological study and rational use of subsoil. Subjects of information disclosure are obliged to disclose information in accordance with the requirements, in the scope and within the time limits established by this Law and other acts of Ukrainian legislation.

Regarding the methods of disclosure of information (Article 5). Disclosure of information is carried out in the following manner: 1) by business entities operating in the extractive industries and parent enterprises in the extractive industries: submission of a report on payments in favor of the state and, in cases established by law, a consolidated report on payments in favor of the state to the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex, by sending an electronic version, and if this is not possible - in paper form by mail with a description of the attachment, or posting in the electronic system for submitting and analyzing reporting (if such a system is available); posting on its website (if such a website is available) an electronic version of the report on payments in favor of the state and, in cases established by law, a consolidated report on payments in favor of the state; providing the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex, or placing in the electronic reporting and analysis system (if such a system is available) information on the essential terms of contracts (agreements) for the use of subsoil concluded before the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring Transparency in the Extractive Industries", as well as changes to the essential terms of such contracts (agreements) together with relevant extracts from such contracts (agreements); providing the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex, or placing in the electronic reporting and analysis system (if such a system is available) copies of contracts (agreements) for the use of subsoil concluded from the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring Transparency in the Extractive Industries", as well as changes to them; 2) by recipients of payments: submitting a report on received payments to the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex, and the independent administrator by sending an electronic version, and if this is not possible - in paper form by mail with a description of the attachment; posting an electronic version of the report on received payments on its own website (if such a website is available) or in the electronic reporting submission and analysis system (if such a system is available); 3) by the central executive body that ensures the formation and implementation of state policy in the fuel and energy complex: posting on its official website or in the electronic reporting submission and analysis system (if such a system is available) an electronic version of reports on payments in favor of the state and, in cases established by law, consolidated reports on payments in favor of the state, an electronic version of the report on received payments, an electronic version of the EITI report;

posting on its official website or in the electronic reporting and analysis system (if such a system is available) information on the essential terms of contracts (agreements) for the use of subsoil concluded before the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring Transparency in the Extractive Industries", as well as changes to the essential terms of such contracts (agreements) together with relevant extracts from such contracts (agreements); posting on its official website or in the electronic reporting and analysis system (if such a system is available) copies of contracts (agreements) for the use of subsoil concluded from the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring Transparency in the Extractive Industries", as well as changes to them; 4) the central executive body implementing the state policy in the field of geological study and rational use of subsoil: posting on its official website information on applications for obtaining special permits for subsoil use and applications for preparing subsoil plots for an auction for the sale of special permits for subsoil use, received from business entities operating in the extractive industries, on issued special permits for subsoil use, concluded agreements on the terms of subsoil use (with relevant annexes, including work programs, the implementation of which is provided for by the agreements); 5) business entities operating in the extractive industries, parent enterprises in the extractive industries and recipients of payments: providing information on payments at the request of the central executive body ensuring the formation and implementation of state policy in the fuel and energy complex, and the independent administrator. It is provided that all electronic versions and copies of documents specified in part one of this article shall be sent or posted in a format that allows their automated processing by electronic means, free and free access to them, as well as their further use. The law is focused on the application of modern computer technologies: the reports specified in the article under analysis shall be posted in the electronic system for submitting and analyzing reports with the electronic signature of the authorized person of the subject of information disclosure in the manner prescribed by the Law of Ukraine "On Electronic Trust Services". The law also provides for the preparation of a Report on Payments to the State (Article 6 of the Law). It is noted that the report on payments to the State shall contain the following information: total amount of payments; total amount for each type of payment; total amount of payments from the rent for the use of subsoil for the extraction of minerals, land payments and environmental tax for each individual project activity; the total amount of payments from the rent for the use of subsoil for the extraction of minerals, land payments and environmental tax (with a separate determination of the amount of payments for carbon dioxide emissions) for each type of payment for each individual project activity. Information on the ultimate beneficial owners in the reporting period and their affiliation with politically exposed persons must be formed in accordance with the requirements of the Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction". The Law on Ensuring Transparency in the Extractive Industries will contribute to the promotion of the raw materials agreement, created, as is known, by a joint investment platform with the US government, which should make it possible to invest in the extraction and development of Ukrainian subsoil - in particular, rare earths, critical for modern technologies. And the promotion of this agreement (Subsoil Agreement) is extremely important for both the United States and Ukraine. After all, after the full-scale invasion of the Russian Federation in 2022, Ukraine found itself in a critical situation: almost the entire economic infrastructure was destroyed, and the resources needed for reconstruction were enormous.

Conclusions. The Ukrainian government was looking for new ways to attract investment and restore the economy. At the same time, the United States, interested in reducing its dependence on dominant suppliers of critical minerals (such as China), sought to diversify supply chains. Thus, improving Ukraine's economic legislation at the current stage, taking into account European experience, will contribute not only to transparency and prevention of corruption in the extractive industries in Ukraine, but also to ensuring security guarantees and the cessation of active hostilities.

LITERATURE

1. Podtserkovny O. Is the Ukrainian government capable of implementing a consistent economic policy // <https://pravo.ua/chy-zdatna-vlada-ukrainy-zdiisniuvaty-poslidovnu-ekonomichnoi-polityku>
2. Law "On ensuring transparency in the extractive industries" // <https://ips.ligazakon.net/document/T182545?an=>