

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 article, the description of the legal regime of the property bases of business entities in the experience of foreign countries is scientifically researched. The article also analyzes the legislation of foreign countries regarding the legal regime of the property bases of business entities.

Key words: *legislation, business, law, foreign, basis, source, economic.*

In the legislation of foreign countries, the legal basis of the activity of business entities, including their property, acquires a certain specificity. Unlike the legal system of Uzbekistan, in developed foreign countries, the field of business law includes any norms that regulate economic relations and concern the interests of entrepreneurs. Such a broad interpretation does not require limiting the subject of business law within the scope of law.

Therefore, under the legislation of foreign countries, such norms are included in the entrepreneurship law that, according to the traditional interpretation formed in the jurisprudence of Uzbekistan, these norms are the sources of other areas of law outside of entrepreneurship (for example, ecology, land, labor law). In this case, norms regarding the cleanliness of the facility, product safety, sanitary-epidemiological requirements, and technical requirements of product production will be included in the business sector.

Foreign law tries to balance the interests of creditors, shareholders, employees and the public. A lot of attention is paid in foreign legislation 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 the enterprise as a set of constantly changing assets (floating charge) under the law of the United Kingdom, or if it is necessary to obtain an anti-monopoly license for the companies, it is enough to recall the requirements of the EU authorities for separation and sale of separate enterprises with a common activity[1].

The legislation of the developed countries of Western Europe usually does not provide for the requirement of registration of an individual entrepreneur in order to carry out his activities. This is an additional restriction of economic freedom that is not part of the general obligation to pay taxes and inform the relevant state authority about one's residence. It is not without reason that there is no registration requirement for self-employed persons (doctors, lawyers, auditors, architects). In order for these persons to obtain the right to operate in the relevant state territory, it is considered sufficient to successfully pass the qualification exam in professional associations. It is the existence of knowledge and peer recognition (not registration) that guarantees the protection of consumer rights in these services.

Legal norms in the field of economy have a tendency to specialize in the fields of production or types of activity. As a result, the following special areas of law are separately regulated and studied: company law, competition law, banking law, energy law, finance 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

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usually carried out with the help of a large array of legal norms[2]. In order to fully understand the main sources of business law of foreign countries, it is appropriate to classify them according to the main areas of business legal regulation. The German, French commercial codes, the United States Uniform Commercial Code can be included in the legislation regarding the regulation of the general commercial sector. Important corporate law documents include the US Model Business Corporations Act 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 Companies Act of 1966.

The corporate law of the European Union (EU), consisting of 13 directives, has a special place in determining the legal regime of the property of business entities. It is the founding document of European corporate law, and it is the First Directive No. 68/151/EU of March 9, 1968, which regulates the issues of distribution of information in companies, keeping the company register, the validity of company obligations, grounds for finding the company invalid (nullity of the company) .

The second directive of the EU numbered 77/91/EU of December 13, 1976 on the maintenance of the company's charter, the minimum amount of the charter capital (25 thousand euros), the condition for the first issue of shares, the acquisition of the company's own shares, the increase and decrease of the capital, large-scale transactions with the company's assets. determines the implementation of transactions, payment of dividends, protection of the rights of creditors in case of loss of capital. Other EU directives regulate mergers and divisions of companies, the content of their annual report, the organization of company management, the function and responsibility of company auditors, consolidation of reports, and the status of one-person companies. The most important directive of the EU in recent years is the Takeover Directive of the European Parliament 2004/25/EU and the Council of the EU of April 24, 2004, aimed at protecting shareholders from fraudulent takeovers.

The second stage of the development of European corporate law began with the adoption of Regulation No. 2157/2001 of the Council of the EU dated October 8, 2001 on the status of European companies. This regulation envisages a special organizational-legal form for European business with a cross-border aspect and allows to avoid conflicts on corporate governance issues applicable in different EU member states[3]. The form of organization and conduct of business as a European company is necessary so that the economic content (economic unit) and legal form (legal unit) are more suitable for the implementation of entrepreneurial activities.

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.

The concept of legislation aimed at regulating relations in the capital market can be found in the US Securities Act of 1933, the Securities Market Act of 1934, the Investment Company Act of 1940, the Securities Act of 1970, the UK Banking Act of 1979 and 1987. can be obtained. The main document of the European Union aimed at harmonizing banking legislation is the Second Directive of 1989 No. 89/646/EEI on the coordination of legislative and administrative law regarding the establishment and operation of credit institutions.

It is a recommendation of the Basel Committee on Banking Supervision, an international cooperation body for the formation of banking legislation in Western European countries. The purpose of the committee is to form unified approaches to the issues of bank regulation and control through the exchange of information and opinions with the participation of state bodies of bank control and credit organizations. One of the main documents of the committee is the Principles of supervision of foreign banking institutions, the Basic principles of effective banking supervision, and the Standards of capital adequacy.

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Bankruptcy procedures are regulated by special legal documents, the US Bankruptcy Code of 1978, the UK Insolvency Act of 1986, the French Bankruptcy Law No. 2005-845 of 2005, the German Bankruptcy Law of 1994. The German Law on Cartels of 1957 and the French Law of December 1, 1986 on Freedom of Price and Competition apply to ensure freedom of competition. These include the 1986 UK Acquisition Act, the US antitrust laws, the Sherman Act of 1890 and the Clayton Act of 1914[4].

In developed foreign countries, the main sources of law include legal documents, precedents (important court decisions) and legal customs. Along with laws, executive documents of state bodies regulating and controlling various spheres of entrepreneurship, including the legal regime of their property, are of great importance. Despite the fact that the constitutions of almost all European countries stipulate that it is allowed to restrict the freedom of citizens only on the basis of law, the restriction of entrepreneurial freedom is actually carried out at the level of executive authority documents. In this sense, the legislation of the European Union has a special place[5].

With the exception of the Treaty establishing the European Community (Treaty of Rome) and some international agreements and conventions, the main body of regulatory documents was 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 on the harmonization and approximation of the legislation of the member countries on certain issues of the operation of the single European market. It should be noted that these bodies issue recommendations and explanations (communication) to the terms of this or that provision, legal institutions and the Treaty on the establishment of the EU, which is an exemplary example of the official interpretation of the regulatory document.

It should be noted that legal documents with a recommendation tone are widespread in foreign countries. Precedents are mainly typical of Anglo-American law countries, but for continental European countries, the role of courts (mainly higher instance courts) in the formation of law has been increasing in recent years. In the absence of a relevant legal norm in the resolution of a particular dispute, or when its content is unclear, there is an excellent opportunity for the court to determine the principles of regulation of this or that relationship, to check the possibility of applying this or that doctrine, and to more accurately determine the essence of the relationship between the parties to the dispute. In the international community, there is a tendency to follow the notable decisions of the supreme courts of other countries and use them in their practice.

In this regard, the US Supreme Court and the German Constitutional Court are highly influential. Among the international courts, the European Court of Justice has a special influence and respect, because this court has formed general principles of law based on the protection of economic freedom, and when unjustified interference with the property rights of private individuals is observed, or when decisions by state authorities have negative economic consequences. will consider the relevant issue when received.

Today, there are many court precedents regarding the protection of property rights of business entities. Among them, for example, the case of *Dartmouth College V. Woodward* on the legal nature of the corporation charter of 1819 (this charter is a contract between the state and the corporation) in US corporate law, *Grove v. Grove v. Economic Life Insurance Co.* case, 1926 on the legal nature of a stock certificate (the status of a stockholder does not depend on the issuance or ownership of the stock certificate) *Baker v. Bankers Mortgage Co.* work can be separated.

Notable recent cases include the Delaware Supreme Court's 1985 *Smith v. The judgments of the Van Gorkom case* and the 2006 Walt Disney Company class action on shareholder director's liability, the EU Court of Justice's 2007 abuse of monopoly position *T-201/04 Microsoft v.* It is possible to refer to the decision of the Commission[6].

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Legal customs are mainly specific to the field of trade of certain categories of goods (sugar, coffee, oil), types of activity (insurance, advertising activity standards) or certain types of professional activity (audit, legal service, banking service). For these purposes, professional associations adopt codes of conduct and responsibility.

Also, international organizations (the UN Commission on International Trade Regulations UNSITRAL, the International Institute for the Simplification of Private Law UNIDRUA) and multilateral conventions, such as the 1997 Convention on the Protection of Investors' Rights, 1988 The UN Convention on International Bills of Exchange and International Promissory Notes, the 1988 UNIDRUA Convention on International Financial Leasing are of great importance.

In Uzbekistan, the main focus in determining the legal regime of the property of business entities and conducting business activities with the wide use of this property in economic transactions is the Law "On Guarantees of Freedom of Entrepreneurial Activity", along with the Decrees and Decisions of the President of the Republic of Uzbekistan, and the adoption of decisions of the Cabinet of Ministers. aimed at influencing. It is envisaged to give wide privileges and freedom to business entities, to protect private business property and to develop new requirements and criteria to strengthen the guarantees of their property rights.

The adoption of the Law of the Republic of Uzbekistan on August 13, 2019 "On Privatization of Non-Agricultural Land Plots"[7] No. LRU-552 is important to further strengthen the legal regime of the property of business entities, especially in determining the private property rights of business entities in relation to land plots. earned According to this law, it was allowed to privatize the land plots on which the buildings and constructions, production infrastructure facilities are located, as well as the adjacent land plots of the size necessary for the implementation of production activities, which are owned by them or are being privatized by them.

It should be noted that it is appropriate to express in Uzbekistan business law the rules established in the legislation of foreign countries regarding the legal bases of the property of business entities, in particular, the practice related to the formation of a chartered fund, the established regime in relation to valuable securities, and the protection of property rights.

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