

NEWSLETTER

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CURRENCY LEGISLATION

Partial abolishment of currency restrictions

On 23 October 2015, the Resolution of the National Bank of Ukraine No. 718 dated 22 October 2015 came into force. This Resolution abolishes some of currency restrictions established by the Resolution of the National Bank of Ukraine No. 581 dated 3 September 2015.

Thus, the NBU cancelled the mandatory sale of foreign currency proceeds on interbank market of Ukraine:

- for projects which are performed under the agreements between Ukraine and EU on participation of Ukraine in the EU international programs;
- for grants from the international financial organizations, in which Ukraine is a member, to the resident legal entities, which are financed on the basis of such grants and in the management of which the Government of Ukraine takes part;
- which were received as cash collateral (guarantee deposit) from a non-resident participant of the auction (bidding) for privatization of state property to the account of the organizer of such auction (bidding).

Pursuant to the Resolution No. 581, the authorized banks were not allowed to release control over the export transactions of their clients based on documents of termination of obligations due to set off in foreign currency. Following adoption of the Resolution No. 718, such requirement is no longer applied to transactions of telecommunication operators on payment for international telecommunication services (international roaming and international traffic services).

It is also worth mentioning that the NBU allowed to register amendments to the loan agreement in foreign currency, if the change of the initial lender was due to its liquidation or merger with the new lender-successor. The NBU also registers loan agreements, under which the loan was provided to the resident borrower with participation of a foreign export-credit agency.

In addition, the NBU cancelled restrictions in relation to withdrawal of cash in national currency via cash desks and ATMs. Until the Resolution became effective, the upper limit of cash withdrawal in national currency was set at UAH 300,000 (approx. USD 13,100) per one banking day per one client.

CUSTOMS LAW

Licensing for export of some ferrous metals is abolished

On 5 October 2015, the Resolution of the Cabinet of Ministers No. 773 dated 30 September 2015, pursuant to which licensing for export of some ferrous metals in 2015 was abolished, was officially published.

As of now, no licensing is required for export of iron zinc alloy, ferronickel, ferrotitanium, refined copper, cathodes and sections of cathodes, rods, bars and profiles made of copper, copper pipes and tubes, secondary aluminum alloys in ingots or liquid state, aluminium products and raw lead.

DOING BUSINESS

Doing Business in Ukraine: World Bank assessment

According to the World Bank Doing Business rating, which annually assesses conditions of doing business, Ukraine moved from 96th to 83rd position. In 2015 Ukraine managed to improve its indicators in several categories.

Thus, Ukraine showed a positive development in the area of business registration. This is mainly because of implementation of online registration procedures and abolishment of registration fees. In addition, Ukraine also improved its ratings in the area of investor protection.

Nevertheless, under some categories, such as dealing with construction permits, transnational trade and taxation, Ukraine remained to be placed at quite low positions of the rating.

Conclusions of DLF attorneys-at-law have been taken into account by the World Bank during preparation of the annual Doing Business report.

Business registration simplified

On 16 October 2015, the joint order of the Ministry of Justice and the Ministry of Finance on electronic exchange of information became effective. Due to this order the process of business registration will be completed within 24 hours.

As of now, following the successful submission of the required documents to the state registrar, this information will be transferred to the State Fiscal Service, the Pension Fund and the State Statistics Service within two hours. Afterwards, within another two hours, the abovementioned authorities provide information from their registers and by the end of the same day the entity will be registered in all of these authorities (previously such procedure took approximately 10 days).

New developments in public procurement

On 30 September 2015, the Law of Ukraine in relation to changes in the area of public procurement due to compliance with the international standards and adoption of measures to fight corruption dated 15 September 2015 became effective.

The changes introduced by the Law are aimed at increasing the level of competitiveness via simplification of participation in public procurement for business, as well as strengthening transparency by way of lifting the restriction on disclosure of terms of the submitted bid proposals.

The Law provides for the following significant changes:

- possibility to review the terms of a bid proposal containing information about the price;
- announcement of the evaluation report on the bidding proposal, as well as exclusion of willful blocking of the bidding;
- increase of the value threshold for application of the law for procurement of goods and services to UAH 200,000 (approx. USD 8,735) and for works to UAH 1,500,000 (approx. USD 65,500);
- the unsuccessful bidder is entitled to get additional explanation of grounds for refusal of their bid;
- introduction of the term of a formal (insignificant) failure, which does not lead to refusal of a bid;
- increase of the value threshold for application of the enquiry procedure for the price bid proposals to UAH 500,000 (approx. USD 21,835).

Simplification of nitrogen fertilizer registration

On 1 October 2015, the Resolution of the Cabinet of Ministers No. 756 dated 2 September 2015 became effective. This Resolution amended the Procedure for state tests, state registration and renewal of registration, publication of lists of pesticides and agrochemicals permitted for use in Ukraine.

The Resolution specifies that for the nitrogen fertilizers, which consist of the active substance that is a component of an already registered fertilizer of the same use and for the same group of crops, the state tests might be substituted by the reports from the institutions, which are a part of the state tests network, and by documentation in relation to the fertilizer and active substance submitted by the applicant.

Also, it is established that the term for expert evaluation of the nitrogen fertilizers is 15 days following submission of the registration documents, which can be prolonged for up to 25 days.

REAL ESTATE

Changes in regulation of architecture and construction activity

By the Resolution of the Cabinet of Ministers of Ukraine No. 747 dated 26 August 2015 the Regulation on preparatory works and the Regulation on construction works were united in a single legislative act, namely the Regulation on preparatory and construction works, which became effective upon its official publication on 9 October 2015. The Regulation on preparatory and construction works is another regulatory act adopted following the amendments made into the legislative framework in relation to regulation of architecture and construction activities.

As of now, the notification on commencement of preparatory or construction works can be sent to the appropriate state architecture and construction control authority at the place of the construction object via the electronic system of construction declaration procedures. This electronic system has started to function on 12 October 2015, but it is only available for use for the applicants with the digital signature.

Pursuant to the Regulation on preparatory and construction works, powers regarding issuance, return or annulment of documents for performance of preparatory and construction works are performed by the executive bodies on state architecture and construction control of village, settlement, city councils, and also structural departments of Kyiv and Sevastopol city administrations. In certain cases, in particular in relation to objects of V (the highest) category of complexity, which are located outside the urban areas or on the territory of several administrative-territorial units, such powers are executed by the State Architecture and Construction Inspection of Ukraine.

Documents, which grant the right to perform preparatory works, are valid until procurement of the right to perform construction works; documents, which grant the right to perform construction works, are valid until completion of construction.

DLF PRACTICE

DLF lawyers returned a deposit to the client of the problem bank

In October 2015, DLF lawyers completed a series of court cases against one of the problem banks in Ukraine. Thus, through court and enforcement authorities the client received UAH 734,000 (approx. USD 32,000), which includes UAH 310,000 of principal deposit amount, UAH 315,000 of accrued interest and UAH 109,000 of penalties.

From the practical point of view, the following legal circumstances, which were recognized by the first instance court and confirmed by the court of appeal, are considered to be of a particular importance. [Read more](#)

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This newsletter is intended to provide a brief overview of current changes to the Ukrainian legislation and should not be viewed as legal advice. For more details or if you would like a specific advice, please, e-mail the named contact persons or use our contact form.

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