

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:

1. Time of termination of accrual and payment of interest for use of deposit funds

Quite often the banking institutions, especially the problem banks, in order to avoid additional accrual of interest on deposits following termination of the relevant deposit agreement unilaterally, without any permission from a client, transfer funds from the deposit onto the current account. After such transaction, the bank terminates accrual of interest and presents this to a client as a fait accompli.

Due to the fact that it may take some significant time to actually return the deposit funds, which in some cases (such as introduction of temporary administration in the bank, moratorium on payments, etc.) could take years, the clients' losses for non-received interest reach significant sums.

In the mentioned case, DLF protected the client's interests in receiving interest payments as of the day of actual repayment of deposit funds (i.e. issue of cash). The client, who entered into the one-year deposit agreement, received interest for all four years throughout which the funds remained on the accounts of the bank.

2. The period of limitation

The deposit agreement terminated in 2010. The client referred this matter to us in 2014. Therefore, we submitted a court claim only after four years following termination of the deposit agreement.

The bank asked the court to reject the claim due to expiration of the general term of limitation period (three years) following termination of the deposit agreement.

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The bank also asked the court to use limitation period in relation to claims on collection of accrued interest under the deposit agreement and penalties (3% per annum and inflation index).

DLF attorneys-at-law drew the attention of the court to the fact that the Ukrainian legislation does not specify the right of the bank to ask the court to use the period of limitation to the legal relations in the area of holding the deposit funds. Also, because the period of limitation does not apply in relation to payment of the principal amount (body of the deposit), the period of limitation in relation to accrual and payment of interest and penalties is also not applicable.

The court recognized our reasons to be legitimate and decided in favour of our client. The court judgment entered into force, and it was enforced.

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