

Encouraging development of public-private partnership in Ukraine

On 24 November 2015 the Verkhovna Rada adopted the law on development of public-private partnership (PPP) and encouragement of investment in Ukraine. The law introduced a number of changes to the Law of Ukraine "On public-private partnership" and other laws that regulate the matter of investment, in particular, in relation to development of industrial parks in Ukraine.

Provisions of the adopted law mainly deal with attraction of funding to the PPP projects. In addition, the law provides for broader areas of use of PPP, and grants the right to the private partner to obtain a land plot, on which a PPP object is located. Important amendments were made in order to regulate the issue of ownership to the objects of PPP. The state is entitled to substitute the private partner in the event of the failure of the latter to perform its obligations. The private partner is entitled to set economically reasonable tariffs for its services, as well as additional guarantees, such as, for example, to refer the disputes to international arbitration. Also, the general procedure for preparation of the PPP projects was modernised, in particular, the international approaches to calculation of the concession payments were implemented.

Regulation of activities of industrial parks was also significantly amended due to adoption of the law on development of industrial parks, which introduced new conditions for activities of such parks in Ukraine. In particular, the burdensome procedures for selection of the managing company and lease of objects to the participants of the park by the initiator or managing company were cancelled.

We note that the Law of Ukraine "On public-private partnership" was adopted in 2010, but so far only a couple of the PPP projects are being implemented in Ukraine. Despite that the Law of Ukraine "On industrial parks" came into force in 2012, the first industrial parks in Ukraine were created only in 2014.