

Protection of foreign investment

International agreements

One of the means for protection of foreign investment is the conclusion of international agreements on promotion and protection of investment. Thus, following ratification of the Convention on the Settlement of Investment Disputes between States and Nationals of Other Convention by Ukraine in 2000, the signatories to the convention have the opportunity to address the matters in relation to protection of their investments to the International Centre for Settlement of Investment Disputes.

At the International Centre for Settlement of Investment Disputes the investors shall benefit from protection of their rights due to the confiscation of their property, unequal attitude towards national and foreign investors.

International agreements on promotion and protection of investments were signed with a number of countries, including Germany, the United Kingdom, France, Switzerland, the Netherlands, Denmark, Poland, Turkey, China, Japan, the United States of America, Canada and many countries in the Middle East.

Terms of the bilateral agreements on promotion and protection of investments are not standardized and may vary significantly.

Safeguards of Ukrainian legislation

Generally, protection of foreign investment in Ukraine is regulated by the Law of Ukraine "On Foreign Investment" and the Law of Ukraine "On Protection of Foreign Investments". These regulatory acts define basic safeguards concerning protection of foreign investments in Ukraine.

The principle of guaranteeing the protection of foreign investments in case of changes of Ukrainian legislation stipulates that in the event of change of guarantees in relation to protection of foreign investment, the state guarantees effective at the time of investment would apply, upon request of a foreign investor, within ten years from the date of enactment of such changes to legislation.

The state authorities of Ukraine are not entitled to requisition foreign investments, except for emergency measures in the event of natural disasters, accidents, epidemics, epizootics. Such requisition might be made on the basis of decisions of state authorities authorized by the Cabinet of Ministers of Ukraine.

Decisions on requisition of foreign investments and compensation conditions can be appealed in court.

Foreign investors are entitled to reimbursement of losses, including lost profits and moral damage caused to them due to actions, omissions or improper performance of duties by the state authorities of Ukraine or their officials towards a foreign investor or enterprise with foreign investments, according to the legislation of Ukraine.

All expenses and losses incurred by foreign investors as a result of such actions should be reimbursed on the basis of current market prices or substantiated estimates confirmed by the audit firm. Compensation payable to foreign investor should be prompt, adequate and effective.

In case of termination of investment activities, a foreign investor has the right to return not later than six months following termination of such activities their investments in kind or in currency of investment in the amount of actual contribution, without payment of customs duties, as well as revenues out of such investments, in monetary or goods form at a real market value at the date of termination of the investment activities.

Following payment of taxes, duties and other mandatory payments, the foreign investors are guaranteed unhindered and immediate transfer of their revenues, profits and other sums in foreign currency obtained legally as a result of foreign investment.