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I. REGULATORY

Changes to the Legislation on Public-Private Partnership

Beginning 24 May 2016, the new law aimed at eliminating the existing barriers in the public-private partnership regulation took effect. This law amends the Laws of Ukraine on public-private partnership, on the state property, and on concessions.¹

The most important changes provided by the law are as follows:

- Public-private partnership is now allowed in the management of facilities in the social, educational, and medical spheres, as well as management of architectural monuments and cultural heritage, and the construction and repairs of residential buildings destroyed in the zone of anti-terrorist operation in Ukraine.
- In addition to concession agreements and joint venture agreements, public-private partnership is now possible under asset management agreements.
- A private partner is now allowed to be granted the use of land plots together with property located on them.
- Early termination of agreement is now allowed under both parties consent, or via the court in the case of a dispute.

- If a private partner is a foreigner, the contract parties may choose an international arbitration for dispute resolution. Moreover, if a public partner is a member of the Cabinet of Ministers of Ukraine, the law entitles a private partner to demand that the state waive its immunity in relation to any court and arbitration judgments, injunctions and enforcement of judgments.
- Following termination of an agreement as a result of breach by a public partner, a private partner may seek repayment of investments and recovery of damages caused by such breach.

Cancellation of Mandatory State Registration of Foreign Investments in Ukraine

On 31 May 2016, the Ukrainian Parliament adopted a law to cancel mandatory state registration of foreign investments in Ukraine. The law will take effect after it has been signed by the president and published.²

State registration is considered redundant, since investment contributions are indicated in the statutory documents, which are in turn entered in to the state registers.

All foreign investors will enjoy equal benefits and guarantees, provided for under the Law on the Regime of Foreign Investments. Such benefits include, amongst others, guarantees against nationalization, foreign investments return upon termination of investment activities, compensation of damages caused by state bodies or state officers.

¹ Law on Ukraine on Amendments to Certain Acts of Ukraine Regarding Removal of Regulatory Barriers in the Development of State-Private Partnership and Promotion of Investments in Ukraine, dated 24 November 2015 No. 817

² Draft Law of Ukraine on Amendments to Law of Ukraine on Cancellation of the Mandatory State Registration of Foreign Investments (No. 2763).

Law on State Service Becomes Effective

On 1 May 2016, a new law on state service³ came into force.

The new law limits the political activity of state servants. Thus, it separates political positions and positions of state servants, and excludes specific categories of positions from the state service.

The law regulates relations when recruiting for the state service, running the service and its termination. Recruiting of state servants is to be conducted on the basis of open competitions, and for this, a commission for electing state servants will be formed.

The law also provides new classifications of state servant positions into categories and ranks, introduces a new position of Ministry Secretary Responsible for Reform Implementation, and provides new rules of appointment of the president's administration servants.

The law allows for the wage payment of state servants not only from funds of the state budget, but also from funds that come as aid from the European Union, other countries' governments, international organizations, etc.

Rail Freight Rate Increase

The Ministry of Infrastructure of Ukraine has issued an order,⁴ according to which the rail freight rate is increased.

Starting from 30 April 2016, the rail freight rate for freight transportation within Ukraine (inboard, export and import traffic) is increased by 15%.

The previous indexation of the rate was made at the beginning of 2015, when it was increased by 30%.

The order entered into force on 30 April 2016.

Prohibition to Change Ownership Structure and General Director in Anti-Terrorist Operation Zone

On 17 May 2016, the Ukrainian Parliament adopted a law prohibiting the registration of changes to the shareholder structure and of the general directorship of legal entities located within the cities of the anti-terrorist operation zone (Donetsk, Luhansk regions), which are not controlled by Ukrainian authorities.⁵ The full list of such cities is provided by the Cabinet of Ministers.

Registration of these changes is possible in the cities that are located on the front line and are under control of Ukrainian authorities, provided that documents are submitted (i) in hard copy, and (ii) by the shareholders and the general director in person.

In addition, the law exempts the legal entities in both previously mentioned city categories from rent for state and communal land and property.

The law enters into force from the date of its publishing.

II. ANTI-MONOPOLY REGULATIONS

New Rules on Economic Concentrations

Beginning 18 May 2016, a new law changing the rules for control over economic concentrations, which was adopted on 26 January 2016, comes into effect.⁶

Under the new law, the approval of the Antimonopoly Committee of Ukraine (AMC) is required if:

- Total assets or aggregate sales of all participants of concentration exceeded €30 million in the preceding fiscal year (including abroad), and the total assets or aggregate sales in Ukraine of at least two participants exceeded €4 million each; or
- Aggregate sales in Ukraine of the target exceeded €8 million in the preceding fiscal year, and the aggregate sales of at least one other participant (including abroad) exceeded €150 million.

Additionally, the law will bring about a new simplified procedure for consideration of applications by the AMC.

In particular, the AMC will now have to consider an application within 25 days if (i) only one participant carries out its activity on the territory of Ukraine, (ii) the total participants' share in one and the same goods market does not exceed 15%, or (iii) the share or aggregate share of participants acting on goods markets does not exceed 20% when having business on such market by another participant is impossible without these goods.

If the AMC finds grounds to reject concentration, the law also provides the participants a right to propose remedies. AMC allows 30 days for the parties to propose commitments that they are willing to undertake in order to eliminate a negative impact on competition.

III. FINANCE

NBU Amends Foreign Currency Classifier to Attract Investments

Effective 4 May 2016,⁷ NBU amends the foreign currency classifier (previously amended in 2005), to expand the first group of currencies, in which investments can be made and repatriated.

The first group now contains 24 currencies, as opposed to the previous 11. This includes all currencies of countries that are EU members but not part of the euro zone, such as Polish zloty, Hungarian forint, Czech koruna, etc. It also includes other world currencies such as Chinese Renminbi yuan, South Korean won, Hong Kong dollar, Singapore dollar.

NBU Interest Discount Rate Decrease

Effective 27 May 2016, the NBU interest discount rate is decreased from 19% to 18% per annum.⁸

³ Law of Ukraine on the State Service, dated 10 December 2015 No. 889-VIII

⁴ Order of the Ministry of Infrastructure of Ukraine on Amending Some Regulations of the Ministry of Transport and Communications of Ukraine, dated 26 April 2016 No. 161.

⁵ Draft Law of Ukraine on Amending the Law of Ukraine on Temporal Actions for the Period of Anti-Terrorist Operation (regarding unhindered activity of the local self-governing authorities) (No. 4048).

⁶ Law of Ukraine on Amendments to Law of Ukraine on Protection of Economic Competition Concerning Increase of Efficiency of Control over Economic Concentrations, dated 26 January 2016 No. 935-VIII.

⁷ NBU Regulation No. 269 dated 19 April 2016.

⁸ NBU Regulation on Regulation of Monetary Market, dated 26 May 2016 No.25-R.

IV. LABOR & EMPLOYMENT

Changes to the Labor Code Limit Employers in Use of Probation Period

The law sets forth categories of employees, to whom the probation period may not be applied.⁹ They are:

- Person elected for a position through voting procedures.
- Winner of election for a vacant position.
- Person having completed internship
- Pregnant woman.
- Single mother of a child under 14 years old.
- Single mother of a disabled child.
- Person entering into an employment agreement for the period of less than 12 months.
- Person hired for temporary or season work.
- Internally displaced person.

Days when an employee has not actually worked may not be included in a probation period.

An employer may dismiss an employee during the probation period upon three days' notice.

The law enters into force the day following the day of its publication.

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⁹ Draft Law of Ukraine on Amending the Labor Code of Ukraine (with respect to probation period).