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ON THE SYSTEM OF LEGAL SUPPORT OF THE ECONOMY

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Abstract

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1. Law has been and remains an important instrument of public regulation in economy. The question is how and in what way the subjects and methods of its impact change, and whether it has a positive influence on the performance of economic entities. So far, it is difficult to give a positive answer, since the law and its role in the development of market economy are still viewed in a simplified or nihilistic manner.

Functionally, it is worthwhile to deal with legal support to economy, which implies a systemic complex of legal acts with a wide range of impact instruments, and legal protection of lawful interests and rights of economic entities. These elements are interrelated and highly variable. Their linkage with economic system elements is still difficult to percept.

In the current period the role of state and law in economy is defined by the new understanding of the state/public impact rather that by the degree of traditional public regulation. This means a modified and downsized public management, expanding public regulation through a number of functional and other legal regimes, formal legalization (of legal entities, acts and actions), and public control. It is these four elements that should serve as the basic means to influence the economy. Whereas the subjects of influence are represented by economic entities, public structures, regimes of their performance in various sectors of economy, basic elements of the economic system: property, finance, resources, labor, etc.

2. One has to note the obvious weakness of the legal activity, existence of multiple gaps and inconsistencies. The lack of laws on federal executive authorities and public control, ambiguity of regional regulations continue to complicate both relations between the branches of executive power, and their relations with enterprises, banks, etc.

The status of some economic entities has not been quite regulated. There are no federal laws on state and municipal unitary enterprises, on state corporations. The status of banks needs to be corrected. There are inconsistencies between legal norms related to joint stock companies, limited liability companies, people's companies. Laws envisaged under the Civil Code have not all been adopted. In addition, frequent amendments to the CC undermine its efficiency.

3. There are gaps in regulating essential elements of economy. The new Labor Code, Land Law (better, fundamentals of land legislation), second part of the Tax Code, third part of the CC have not been reviewed yet. Federal laws on state property regulation are needed with respective adjustment of relevant laws of the subjects of the Federation, as well as on currency circulation.

4. Legal acts at times still contain ambiguous concepts, obsolete norms, contradictory sanctions. Their application lacks such a flexibility that could facilitate economic growth. For example, with respect to the use of tax exemptions and “vacations”, arrangement of financial mutual settlements, promotion of scientific and technical creativity, operation of production capacity.

5. Highly inconsistent processes occur within the mere framework of legal support. Underestimation of its systemic nature leads to unnecessary judicial collisions. Lack of balance in the development of various legal acts impedes the adoption of efficient legal decisions, which inevitably enhances the factor of “informal” regulation in management and economic relations when stakeholders “agree” on issues bypassing the laws, regulations and procedures. The tendency is becoming increasingly dangerous and threatens to disrupt the whole legal environment.

6. To overcome the aforementioned difficulties, it seems urgent to address the following issues.

It is essential to continue strengthening the role of law and reducing the importance of sublegal acts. The agenda should also include systematic adoption of new federal laws, coordination and adjustment of regional legislation.

Agency-based law-making needs to be significantly regulated. The new “Regulations on the Development and Adoption of Legal Acts by Executive Authorities” should explicitly establish the types, rationale and procedures for the adoption of agency-based acts, and the ways to evaluate their legality and feasibility.

In view of the increasing independence of economic entities, the development of corporate law-making should be encouraged through the generalization of experience, application of standard guidelines, etc. At the same time, contradictions between local acts and laws have become more acute. In practice, such acts are often issued contrary to the provisions of the Labor Code (when dealing with issues of labor payment and arrangements), Civil Code (contractual arrangements), violate the norms of the Budgetary and Tax Codes, economic and other laws. Such facts remain unpunished.

On the other hand, public and municipal authorities often violate the status of economic entities by conducting endless inspections, imposing pressure and engendering corruption, unlawfully restricting their rights. Mismatches in the development of various types of legal acts hinder the adoption of effective legal acts. This, in turn, reinforces the “informal” controlling factor in managerial and economic relations when parties concerned address the issues by “making deals” and bypassing laws, regulations and acts. This tendency is becoming more and more dangerous posing a threat of undermine the very legal foundation.

