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## **UKRAINE AS A LAW-BASED STATE: MYTH OR REALITY?**

As far as we know, the first article of the Constitution of Ukraine defines our state as law-based. Lots of scientists add into this term rather broad sense: establishment of main human rights in laws; passing laws, which express the will of the people; maximum realization of rights and freedoms; high level of legal culture of citizens; rule of law; subordination of power to law; etc.

After enactment of the Constitution of Ukraine our state has taken the way to developing of such a state. Many laws, enacted since that time, represent the position of our powers. But the theory needs practice and Ukraine is not an exception. Of course laws made a big contribution to the developing law-based state, but it's not enough. We have a lot of problems and after solving them it will be possible to achieve the goal.

First of all, imperfect laws need to be changed and improved. There are many real examples, when gaps and weaknesses in laws cause their incorrect application. Worked out to the smallest detail and comply with the needs of society laws can make a platform for further development.

It is worth to note the activity of public authorities. From time to time we can hear about corruption scandals, criminal schemes, incompetent decisions made by authorities in different institutions. It happens when people who want to meet their interests come to power. In this case we can't say about effective functioning, work for the common good legal activity and then powers are above law. So it is necessary to control over public authorities.

Our society is not ready for law-based state. We are still under the influence of soviet mentality where there is no place for democracy, rule of law, many rights and freedoms. It brakes our development and integration into the European legal space. Far and away Ukraine is a party of many international agreements and a member of human rights organizations, but we can't use European experience in full. So if we want to change state, we need to change society too.

The next problem is low level of legal culture. Of course, it's good when a state protects rights and freedoms legally, but it's better when citizens are sensible and know how to use them. In other European countries people know much more about their rights, duties and, as a result, laws are more effective there. Legal culture is very important for implementation of laws.

Law-based state is impossible without democracy. It's a pity to say but this institute of law works not properly. According to legislation the only source of power in Ukraine is the people but in reality ordinary people can rarely have influence on powers. It means that democracy works only on paper because relatives, good friends, business partners perform state functions very often.

All in all, forming of law-based state is rather difficult process. We have many problems but their solving is impossible without interference by public authority. It's not easy to use European practice because we have a lot of differences. The best way is to use only tested developments adapted to our realities. Some people think that we need only to change the state and everything will be perfect but it is not true because the society needs changes in general. Only active collaboration can give us possibility to form a real law-based state which will be highly-developed like other European countries. It needs a lot of time, work, possibilities, experience, etc.

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### REORGANIZATION OF LEGAL ENTITIES

To start with, the term «legal entity» is one of key terms in civil law of Ukraine. Legal entities have their civil rights, actively use them and are full participants in civil legal relations, so everything concerning legal entities is comprehensively regulated by civil law, including the procedure of reorganization. Besides its legal meaning, «reorganization is one of the processes that support the creation of sustainable, competitive and financially independent business partnerships as a way of optimizing their operations depending on market conditions»[4].

The term «reorganization of legal entity» is not defined in Civil and Commercial Codes of Ukraine, although it is described as one of the ways of legal entity termination. This is the narrow approach to reorganization unlike the wide approach which means reorganization including every important change in legal entity functioning. S. V. Martyshkin gives his definition: «Reorganization is a special process which results in termination and/or creation of legal entity, due to the transfer of rights and duties from legal entity-predecessor to another legal entity-successor in legal-succession order»[3, p.7]. It is agreed to distinguish the following characteristics: 1) universal legal succession, which includes the transfer of property, rights and duties of the entity-predecessor to the entity-successor; 2) termination and/or creation of legal entity in the process of reorganization; 3) legal entities are subjects of reorganization; 4) it results in changes of financial situation of the legal entity-successor, which includes reduction or increment of the statute