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**ACTUAL PROBLEMS OF THE LEGAL REGULATION
OF THE GUARANTEEING (INSURANCE) SYSTEM
OF INDIVIDUALS' DEPOSITS**

The guaranteeing of the financial security of the state depends on the stability of its financial system in general and banking system in particular.

The stability of the banking system depends directly on the resource capacity, i.e. on the availability of the sufficient amount of deposit funds. To attract these funds the state is obliged to ensure adequate and equitable regulation of the activity on attraction of deposits and ensuring the rights of depositors. In connection with this, it is necessary to consider some of the issues that arise from the application of certain regulatory legal acts that regulate legal relations arising in the guarantee system of individuals' deposits in Ukraine.

According to the Law of Ukraine "On the system of deposits guaranteeing of individuals", the guaranteeing system of deposits is the set of relations that are regulated by this Law and the members of these relations are the Deposit Guaranteeing Fund of natural persons (hereinafter – the Fund), the National Bank of Ukraine, the Cabinet of Ministers of Ukraine, banks and depositors [1].

It should be mentioned that due to the introduction of the function of the insolvent banks withdrawal from the market in the activity of the Fund, one more subject, specialized institution – juridical subject, established by the Fund in order to transfer there the assets and liabilities of the insolvent bank in the cases and the order stipulated by the Law of Ukraine “On the system of deposits guaranteeing of individuals”, becomes the member of the legal relations related to the deposit guaranteeing of natural persons.

It seems, that the purpose of this subject introduction is the maintenance of the efficient resource usage in the case of the inability to use other ways of achieving the stated objectives.

The state regulation is nothing but the set of methods, forms and ways of influence on the arising relations. The ultimate goal is to reach that level of social relations ordering that will correspond to the model represented in the regulatory legal acts. The same is applied to the legal relations that arise in the guaranteeing (insurance) system of deposits.

The formation of this system is impossible without its subordination to any principles.

As we presume that the guaranteeing (insurance) system of individuals’ deposits is the part of the state financial system which is subject to the regulation by the financial law rules, hence its progressive advance must also comply with the principles of the financial law.

The inherent features of the financial law principles are: 1) the financial law principles are subordinated to the objective of this branch and the tasks arising from it; 2) the financial law principles regulate the public and legal sphere of the relations that are established at the state or municipal level and guaranteed by the means of the state protection. However there is private – legal constituent as far as financial-legal relations in many ways depend on free expression of will of their participants; 3) the principles of financial law have the sign of generality, the universality of demonstration in different situations and legal relations. However, it does not exclude the different degree of their involvement in particular law enforcement situation; 4) the principles of financial law must meet the requirements of completeness, i.e. they must cover the broadest range of legal relations, to ensure maximum compliance of the principle denomination with its content and legal reality which are the subject of the legal regulation; 5) each of the principles of financial law should possess the qualitative definiteness, i.e. have specific content that does not agree with the content of other principles; 6) the principles of financial law have objective-subjective nature, since at the level of juridical awareness of individuals the principles of financial law are objective since they don’t depend on their consciousness and set up the most important features of the respective branch of law. At the legislative

level these principles seem to be subjective categories, as they depend on the legislator's will regarding the regulation of the legal relations and procedures; 7) being the regulatory entities by their nature, the principles have all characteristic features of the financial and legal norms. Therefore, the principles of financial law are to be enshrined in the current legislation in the form of norms-instructions which contain their content in an expanded form [2, p.147-148].

Taking into account the above-mentioned as well as the analysis of the regulatory legal acts of different countries which regulate the legal relations related to the deposit guaranteeing of natural persons, we can single out the following principles of the guaranteeing system of individuals' deposits – the obligatoriness of the banks' participation in the guaranteeing (insurance) system of deposits; the transparency of the system activity; savings character; the formation of the funds of the guaranteeing (insurance) system of deposits; the limitation of compensation; the ability to attract the funds at the expense of other subjects different from banking subjects (including foreign investors and states); minimizing the risks of adverse consequences for depositors.

It should be mentioned that these principles are represented in the Law of Ukraine “On the system of deposits guaranteeing of individuals” and conform to the principles of the legal regulation of the deposit insurance enshrined in the legal acts that are valid within the European Union.

However, there is a number of unresolved problems in the legal regulation of the guaranteeing (insurance) system of individuals' deposits in Ukraine that are subject to the further study.

References

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