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Oksana HNATIV

PhD in Law, Associate professor of the Department of Civil Law and Procedure of Ivan Franko National University of Lviv, 1, Universytetska St., Lviv, postal code 79000, Ukraine (gnativ.adv@gmail.com)

ORCID: 0000-0002-4161-8478

Bijay Kumar KANDEL

Visiting Professor, USP (Fiji), UNICAF University (Cyprus) and SIMI (Switzerland), 23 Berkeley Road Street, Peterborough ZIP Code: PE3 9PA (UK) (bijaykandel@gmail.com / bijaykkandel@gmail.com)

ORCID: 0000-0003-3793-2410

Оксана ГНАТІВ

Кандидат юридичних наук, доцент кафедри цивільного права та процесу Львівського національного університету імені Івана Франка, вул. Університетська, 1, Львів, поштовий індекс 79000, Україна (gnativ.adv@gmail.com)

Біджай Кумар КАНДЕЛ

Запрошений професор, USP (Фіджі), Університет UNICAF (Кіпр) та SIMI (Швейцарія), 23 Berkeley Road Street, Peterborough ZIP Code: PE3 9PA (UK) (bijaykandel@gmail.com / bijaykkandel@gmail.com)

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THE COMPONENTS OF EFFECTIVE INVESTMENT POLICY OF UKRAINE

Abstract. *The Purpose of the Study* is theoretical substantiation of the factors of efficiency of investment activities in Ukraine. **The Research Methodology.** To carry out the research, sources such as international acts, legislation of Ukraine and court practice were used. These sources became the empirical basis of the study. The goals of the research were achieved with the help of the used research methods (dialectical, autopoiesis method, structural-logical, formal-legal), as well as research techniques (analysis, synthesis, induction, deduction, etc.). **The Scientific Novelty** lies in the fact that this article is one of the first comprehensive studies of the prospects for the development of investment activities in Ukraine. **The conclusions.** After the full-scale attack of the Russian Federation in Ukraine, the popularity of social investments increased. Social investing also needs regulatory support, just like investing for profit. Factors ensuring the efficiency of investment activity in Ukraine have been determined, which include determination of investment areas; consideration of territorial capital; use of innovative technologies to attract investments; improvement of the legal mechanism that ensures the proper implementation of investment activities; protection of investors' rights.

Key words: legislation of Ukraine, investment, social investment, branding and crowdfunding platforms, territorial capital.

СКЛАДОВІ ЕФЕКТИВНОЇ ІНВЕСТИЦІЙНОЇ ПОЛІТИКИ УКРАЇНИ

Анотація. *Мета дослідження* теоретичне обґрунтування елементів, які впливають на ефективність інвестиційної діяльності в Україні. **Методологія дослідження.** Для здійснення дослідження використовувалися джерела такі, як міжнародні акти, законодавство України та судова практика. Ці джерела стали емпіричною базою дослідження. Мети дослідження вдалося досягти з допомогою використаних методів дослідження (діалектичного, методу автопоезису, структурно-логічного, формально-юридичного), а також прийомів дослідження (аналіз, синтез, індукція, дедукція тощо). **Наукова новизна** полягає у тому, що вказана стаття є одним із перших комплексних досліджень перспектив розвитку інвестиційної діяльності в Україні. **Висновки.** Після повномасштабного нападу Російської Федерації на Україну в Україні зростає популярність соціальних інвестицій. Соціальне інвестування потребує також нормативного забезпечення, як і інвестування з метою одержання прибутку. Визначено чинники забезпечення ефективності інвестиційної діяльності в Україні, до яких належать: визначення сфер інвестування; врахування територіального капіталу; використання

інноваційних технологій для залучення інвестицій; удосконалення правового механізму, який забезпечує належне здійснення інвестиційної діяльності; захист прав інвесторів.

***Ключові слова:** законодавство України, інвестиції, соціальне інвестування, франчайзингові та краудфандингові платформи, територіальний капітал.*

The Problem Statement. Attracting investments to Ukraine has always been a problematic issue. One of the important components of attracting investments to the Ukrainian economy is effective legal regulation. Since the restoration of the independence of the Ukrainian state (1991), the Ukrainian investment legislation has undergone numerous changes with the aim of attracting investments, removing obstacles in the sphere of investment, as well as protecting investments. These changes concerned not only foreign investments, but also national ones.

The state, which simultaneously acts as a rule-maker and a participant in investment relations, is obliged to simultaneously protect all subjects of investment activity from negative consequences. At the same time, excessive protection of one of the participants may lead to violation of the rights of others. At the same time, the state is an equal subject of these relations, which have a civil-legal, private nature.

After the full-scale attack of the Russian Federation on Ukraine and the task of significant destruction, all areas of the economy need to attract numerous investments already now. The development of new investment projects, the implementation of which is guaranteed by the state, as well as bringing the investment legislation of Ukraine into compliance with the legislation of the European Union, are necessary conditions for attracting national and foreign investments. Moreover, the new direction of investment policy should become social. Social investments cannot be called new for the legislation of Ukraine, but their content and essence are not sufficiently researched. All the above testifies to the relevance of the chosen research topic.

The Analysis of Sources and Recent Research. The authors emphasize the necessary conditions for attracting foreign investment for the recovery of Ukraine's economy, including the use of modern technologies. However, certain issues of investment policy and activity, in particular factors of investment attractiveness, forms and types of investment, etc., have already been the subject of separate studies. At the

same time, the mentioned studies were carried out not only from the standpoint of jurisprudence, but also of economic sciences.

According to estimates of the humanitarian, economic and financial impact of the invasion of the Russian Federation in Ukraine, to restore the Ukrainian economy and ensure the sustainable development of the European region in general, it is necessary to establish cooperation in the field of trans-European projects, including the energy system (Astrov et al., 2022). These studies, carried out in April 2022, are only a preliminary assessment of the damage and losses, as well as possible ways of recovery. However, as of today, it is possible to identify investment prospects and methods of attracting investments to the economy of Ukraine.

Russia's aggressive attack on Ukraine had a negative impact on global stock markets, and not only on Ukraine's economy. This is evidenced by the research of Boungou and Yatié, who emphasized the need to understand the impact of a full-scale invasion of Ukraine to develop effective financial strategies (Boungou, 2022). The authors indicate that with the passage of two weeks, the global stock market has adapted to the situation. This made it possible to somewhat reduce the consequences of the started war for the world economy. However, this overview is superficial, although it indicates the need for continued investment.

Thus, Haliti Rudhani et al. among the factors that determine the investment attractiveness of private companies in Kosovo, mentions the regular preparation of financial statements in accordance with international standards and their placement for public access (Haliti Rudhani et al., 2017). The authors consider the financial report and the auditor's report attached to it to be such documents that must comply with international financial reporting standards. Attracting foreign investments to such unstable regions as Kosovo is indeed problematic from the point of view of their protection and ensuring the sustainable development of the respective territories. At the same time, as the practice of Azerbaijan and Kazakhstan shows, the presence of foreign investments in the state protects it from full-scale aggression. Yes, the transparency and reliability of the company makes it attractive for investments and not only foreign ones. The investor understands the

processes taking place and sees their result without embellishments. But researchers reveal only one aspect of this problem. The article considers only private companies, but attracting investments can also be carried out by state or utility companies.

Ukrainian authors Moskalenko et al. distinguish in their research five groups of internal criteria that determine the level of investment attractiveness: socio-economic, infrastructural, innovative/research, energy resources and agricultural dimensions (Moskalenko et al.). The authors' opinion is correct that the characteristics of the country's investment attractiveness are the dynamism and interrelated development of its determinants (criteria): the government's decision-making to create a positive business climate, increasing productivity with the help of innovative technologies, effective use of agro-climatic resources, transition to alternative energy sources. This study is valuable because it highlights aspects of the investment attractiveness of individual Eastern European states. At the same time, Moskalenko et al. highlighted the factors that are common to all analyzed states, that is, without considering the specifics of the Ukrainian state.

One of the components that determine the investment attractiveness of the state is territorial capital. Jona (Jona, 2015) investigated the impact of territorial capital on the state economy using the example of Hungary. However, the influence of territorial capital on the attraction of investments, both in the local economy and in the economy of the state, was left out of the author's attention. Human, cultural, and natural resources are permanent components of territorial capital that affect economic indicators in Ukraine, while other components are variable, as their influence occurs only during crises (Getzner, 2022).

An interesting study of investments to avoid pandemic risks for trading enterprises is the article by Hanna et al. (Hanna et al.). The authors emphasize that in the conditions of the pandemic, successful investment provides business entities in the field of trade with a stable income. This article is important because it defines the phasing of investing. One of the criteria for influencing the investment attractiveness of a financial institution for trading companies in Ukraine is the availability of information about financial activity and types of financial instruments. This study is somewhat similar to Haliti Rudhani et al.

(Haliti Rudhani et al., 2017), that is, indicates the need to highlight information in a form accessible to the investor and provide him with a clear idea of the forms of investment.

No less important is the definition of areas of investment. The COVID-19 pandemic and the Russian Federation's full-scale attack on Ukraine have “exposed” existing problems in the energy system, which can be solved by changing the concept of consumption and attracting investments in renewable energy sources (Zakeri et al., 2022). Considering the conclusions made by the authors, the field of energy is one of the most promising. However, the study of Zakeri et al. aimed at identifying general trends in the energy system. The prospects of investments in the system of renewable energy sources are also indicated by studies of Ukraine's neighbors, in particular Poland. Polish scientists discuss the possibility of direct conversion of green energy from RES farms into thermal energy with planned investment in thermal power plants (Talarek et al., 2022). At the same time, research into the prospects of investing in the energy system of Ukraine remained outside the attention of the authors. Although the conclusions of foreign authors are relevant for the Ukrainian state: the need to adopt legislative acts, the priority of access to the energy system, the expansion of the auction system, the green tariff system, subsidies, guarantees of origin and the assistance mechanism aimed at the development of technologies.

Human capital should be considered a promising area of investment. When planning the policy of investing in human capital, purposefulness is necessary, as well as the combination of learning goals with the level of technological development (Ogunade, 2011). The author emphasizes that the effective use of human capital requires considering the individual characteristics of the state. Investments in this area contribute to the economic growth of the state. However, the author's research focused only on Singapore, South Africa and India. At the same time, the topic of investing in human capital is more relevant than ever for the reconstruction of Ukraine.

Not many studies are devoted to the legal aspects of investing in Ukraine. Worthy of attention is the article by Kossak and Yanovytska, which highlights the types of foreign investment (Kossak et al., 2021). In particular, the authors focused on researching the investment legislation

of Ukraine and determining the types of resources that can be objects of foreign investment. And although the title of the article mentions forms of investment, they are not given any attention in the text of the article. At the same time, national, including state, investments remained out of the authors' attention. At the same time, the experience of creating public investment funds is quite a successful experience for long-term investments (Karsten et al, 2022).

Research related to the possibility of using modern technologies to attract investments remains undeniably relevant. Interest in the specified scientific topic is growing. In particular, digital platforms help geographically dispersed investors and entrepreneurs establish long-term cooperation (Maula et al., 2022). At the same time, as noted by Butticè and Useche, the use of crowdfunding platforms enables immigrant entrepreneurs to achieve success in attracting external investment in their own business (Butticè et al., 2022). Analyzing the decision-making mechanism of investors and the management of financial projects, Zhu et al. actually discovered for the first time the relationship between such actions and the degree of information disclosure and the intensity of competition (Zhu et al., 2022).

Researchers of an equity crowdfunding platform in China expressed the same position (Li et al., 2016). When disclosing information about the entrepreneurial team, its business age, behavior, as well as information from the senior leader, investment experience and comments on the project.

One of the most thorough studies of the role of crowdfunding platforms is the scientific work of Kleinert et al., which analyzes the criteria for selecting potentially attractive projects for investment (Kleinert et al., 2022). Crowdfunding platforms create an environment for the interaction of promising investment projects and investors (accredited and non-accredited), providing the latter with enough information to make decisions. At the same time, the mentioned articles explored the use of digital technologies to attract investments in the US, China and European countries. However, in each of the countries, it is necessary to consider the peculiarities of investing, which allows to take this into account to improve the investment climate.

The specified scientific developments are valuable, as they allow for a comprehensive analysis of the problems of attracting investments for the recovery of the economy of Ukraine and the opportunities provided by fundraising and crowdfunding platforms for this purpose.

The Purpose of the Article is to describe the elements affecting the effectiveness of investment activities in Ukraine.

Materials and methods. To write the article, primary sources were worked out, which include international acts, as well as the legislation of Ukraine, the practice of its application (court decisions). The article analyzes the scientific works of foreign and Ukrainian authors, which are devoted to certain aspects of the investigated problem.

In carrying out the research, the authors used the Aristotelian (philosophical) method, as well as general scientific methods (systemic, structural-functional, ascent from the concrete to the abstract, ascent from the abstract to the concrete). Considering the topic of the article, the authors used special (developed by non-legal sciences, in particular, analysis of written sources) and separate (developed by legal sciences: dogmatic method, methods of interpreting legal norms) methods. The basis of the research was the dialectical method, which made it possible to analyze the topic holistically, as well as to determine the main trends in the development of investment activity in Ukraine.

The method of autopoiesis was also used to study investment activity. It made it possible to reflect the mutual influence of economic and legal components, as well as to demonstrate the importance of each of them. The structural-functional method ensured the identification of factors (elements) that affect the effectiveness of investment activity, promising areas of investment. The application of these methods led to the use of scientific ways: analysis, theoretical synthesis, abstraction (definition, limitation, generalization and division of concepts), description, characterization, clarification, proof, forecasting.

The scientific research was carried out in several stages, taking into account the volume of the studied material and the need to justify the conclusions drawn. At the first stage, the analysis of scientific works of foreign and Ukrainian scientists, as well as other published materials, was carried out. At the second stage, the elements that affect the efficiency of investment activity in Ukraine are determined. At the third

stage, the theoretical substantiation of the elements of the effective investment policy of Ukraine in the context of the perspective was carried out.

The Main Material Statement. Investment attraction is the result of an effective investment policy. For this purpose, the components that affect its effectiveness should be determined.

From the analysis of the above studies, it should be concluded that such elements are:

- 1) definition of areas of investment;
- 2) consideration of territorial capital;
- 3) use of innovative technologies to attract investments;
- 4) improvement of the legal mechanism that ensures the proper implementation of investment activities;
- 5) protection of investors' rights.

As a result of the armed aggression against Ukraine, almost all spheres of life and activity were destroyed. At the same time, the prioritization of spheres of attracting investments will help to balance the financing of those spheres that will ensure proper social conditions for the population and ensure economic growth. These two areas combine specific areas of investment.

According to the legislation of Ukraine, as well as according to the legislation of foreign countries, there are two main directions of investment: for the purpose of obtaining profit and achieving another social effect. However, investment activity in Ukraine has always focused on those areas that provided profit. At the same time, the war of the Russian Federation against Ukraine and damage to the housing and social infrastructure (health care facilities, educational institutions, including educational institutions, care facilities for the elderly, and hospices) changed the emphasis. Many foreign companies, as well as states, have joined social initiatives to rebuild cities. For example, the Azerbaijani company SOCAR Energy Ukraine helped rebuild a school in Irpin (The SOCAR company..., 2022).

Examples of social investment in Ukraine include the creation and activity of the Ukrainian Social Investment Fund, which focused its activities on supporting residents of the eastern and southern regions (Results of USIF activity for 20 years, 2020). In essence, it is an

international, intergovernmental social project aimed at solving socially significant problems. Social investment initiatives include the activities of the Ukrainian Veterans Fund, which is an institution under the Ministry of Veterans Affairs of Ukraine and provides micro-grants, carries out organizational activities in the field of fundraising (Ukrainian Veterans Fund).

This shows that the initiators of social investment are state bodies, local self-government bodies, and business representatives. It is obvious that entrepreneurial companies can independently determine the principles of internal social investments aimed at the development of the company's human capital. These relations are not subject to legal regulation. But the main principles of interaction between state authorities, local governments and other social investors should be determined at the legislative level. It would be necessary to determine the forms of such interaction, as well as the forms of reporting to investors to ensure the transparency of the socially oriented investment activities and, accordingly, long-term cooperation. In Ukraine, social investment is partially regulated in the Law of Ukraine "On the concession" (2019). The specified law mentions such terms as social importance of the "project", "social obligations". However, their content is not revealed. The state cannot point to non-fulfillment or improper fulfillment by the investor of its obligations in the social sphere, if their list is not specified. A similar problem arises when privatizing and leasing state and communal property.

An equally important issue is the definition of priority areas of investment for obtaining profit and growth of the economy of Ukraine. As of today, there is a state program to support businesses relocated from temporarily occupied territories. It is not only about the simplified procedure of re-registration on the Diia platform and the provision of financial support for the placement of production facilities in the territory where there are no active hostilities.

The "33-33-33" program is an example of a social project of a relocated business and local self-government bodies for the employment of internally displaced persons (The business relocated ..., 2022). As the head of Lviv OVA, Maksym Kozytskyi, notes, it is Ukrainian entrepreneurs who invest the most in the development of Ukraine, create

jobs and pay taxes (In Lviv, they want to socialize forced migrants, 2023). These examples illustrate the effectiveness of cooperation between authorities and business entities, which ensures the development of the latter under martial law and helps the state fulfill its social obligations. This also indicates a shift in emphasis to the domestic investor. At the same time, the state must show openness, transparency, stability and a real possibility of legal protection to attract foreign investors.

Considering the situation in Ukraine and the world, the most promising areas of investment seem to us to be construction and the search for new constructive solutions in this area, alternative energy sources, development of new mineral deposits, renewal of the oil and gas transportation system of Ukraine, innovative technologies, defense and agricultural fields. Such conclusions are based on the study of the needs not only of Ukrainian society, but also of the world community in general. Dependence on one or more states that provide the supply of one or another product can significantly affect the entire structure of economic ties. The blockade ports of Ukraine of Russians caused the prerequisites for a food crisis and the search for new logistical solutions. Blackmailing the Russian Federation to stop the supply of energy carriers to European countries led to the search for alternative sources of supply. Only the speed of decision-making and the availability of alternative options made it possible to stabilize the situation.

Let's briefly consider the prospects of investing in each of the proposed areas. The field of construction is relevant due to the amount of destroyed housing and infrastructure in Ukraine. Moreover, constructive decisions in the field of construction should include a safety and environmental component. This new industrial construction must be environmentally safe and use new technologies to improve the quality of production and increase its volume. Residential construction must consider possible rocket attacks and provide for the presence of bomb shelters and shelters. In parallel with the construction of housing, it is necessary to update the water supply and drainage system, heat supply, as well as the energy system.

The current crisis of Ukraine's energy system, caused by Russian missile attacks on Ukrainian energy facilities, demonstrates the need for

their additional protection, including the impossibility of interfering with the electronic control system, etc. At the same time, it is necessary to ensure energy independence of Ukraine. In this direction, two directions remain relevant - the development of new deposits and alternative sources of electricity. There are already certain developments in each of these areas. Thus, shale gas deposits and oil and gas deposits in the Black Sea are promising for development (Sore question ..., 2021; The oil and gas potential of the Black Sea ..., 2020). The main difficulties are that most of the deposits in the Black Sea are under the control of the Russian Federation, so their development is possible only after the liberation of the annexed territories. Before the start of the full-scale war in Ukraine, the number of solar power plants was growing (Naypotuzhniishi sonyachni ..., 2020). It is obvious that deep drilling and the equipment of solar and wind power plants require accurate intelligence on the features of deposits, knowledge, and the necessary equipment. These processes require investments and are promising not only for the energy system of Ukraine.

An equally important issue is the renewal of the oil and gas transportation system of Ukraine. Transportation of energy carriers to Europe is an important aspect of cooperation with the states of the European Union. Therefore, its renewal and safety is always relevant, as is the construction of new transportation routes.

One of the spheres of activity, which during the war remains profitable and due to which revenues to the budget of Ukraine do not stop, is the IT industry. Ukrainian inventors are the authors of successful startups, both in Ukraine and abroad. An example can be a startup producing paper from fallen leaves, which received €2.5 million from the EU for the construction of a factory (Ukrayins'kyi startup Releaf Paper ..., 2022). One of the most successful state startups is Diia, whose analogues want to be implemented by other states (The Ministry of Digital ..., 2023). It also demonstrates the state's cooperation with investors.

No less important developments concern the defense sphere. It is primarily about Ukrainian drones (During the war, Ukrainian masters created dozens ..., 2023). This is an opportunity to establish cooperation with NATO countries the Turkish company "Bayraktar". New

technological solutions are needed in all spheres of life. However, it is necessary to take care of the security of personal data, the prevention of violation of the rights of others, ethical aspects and the safety of the environment.

The agricultural sector remains important not only for the economy of Ukraine, but also for ensuring food security. Of course, demining the territory of Ukraine and restoring the soil after hostilities requires time and costs. However, this is a necessity that can serve as a basis for new solutions related to the restoration of the quality characteristics of chernozems.

Analyzing the areas of investment, we came to the next component of investment – territorial capital. Each region of Ukraine has its own characteristics of territorial capital. At the same time, the components of the territorial capital of the Ukrainian state are the agricultural sector, human capital, logistical resources, cultural values and economic indicators.

The use of fundraising and crowdfunding platforms to attract investments is a relatively new phenomenon for the Ukrainian state. Their use began with the start of a full-scale war. If among Ukrainian inventors there has long been a practice of using relevant foreign platforms, it is a relatively new practice for Ukraine. As of today, the state fundraising platform UNITED24 has been launched, which allows you to make a charitable contribution in one click to one or more areas: “army of drones”, “shaheed hunters”, reconstruction of Ukraine, defense and demining, medical assistance, etc. (UNITED24). The platform's official website includes reports on the use of the funds raised, which makes information open to investors and the platform's activities transparent. This is the basis for long-term cooperation. The example of the success of the UNITED24 fundraising platform demonstrates the possibility and necessity of attracting investments to the economy of Ukraine with the help of fundraising and crowdfunding platforms. Conclusion of investment contracts with the help of electronic platforms has long been successfully used in Ukraine.

One of the biggest problems is the improvement of the legal mechanism that ensures the proper implementation of investment activities, as well as, accordingly, the protection of investors' rights. The

reform of the investment legislation of Ukraine has been ongoing since the restoration of Ukraine's independence. However, The Law of Ukraine “On Investment Activities” (On Investment Activities, 1991) and The Law of Ukraine “On the Foreign Investment Regime” (On the Foreign Investment Regime, 1996) continue to operate in our country. These laws, adopted back in the 90s, determine the basic principles of investment activities by national and foreign investors. Although they do not fully correspond to modern investment conditions, and this, in turn, does not contribute to the improvement of the investment climate in Ukraine.

One of the most extensive attempts to improve the investment climate in Ukraine was the adoption at different times of new regulations aimed at attracting investments and harmonizing the legislation of Ukraine and the legislation of the European Union within the framework of the Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part (Association Agreement, 2014). These are the Laws of Ukraine “On Public-Private Partnership” (2010), “On the concession” (2019), “On state support of investment projects with significant investments in Ukraine” (2020), “On guaranteeing property rights to real estate objects that will be built in the future” (2022).

At the same time, despite so many laws, the issues of the activities of fundraising and crowdfunding platforms, as well as the establishment of clear requirements for the implementation of investment activities, remain unsettled. It is, first, about the disclosure of information about investment projects, as well as the assessment of their prospects. After all, it is necessary to settle the issue of protection of investors' rights, including guarantees of their activities. Legal regulation of investment activities should also eliminate or at least reduce corruption risks.

The last component of successful investment activity is the possibility of real protection of investors' rights. It should be noted that the Supreme Court is trying to develop effective ways to protect the rights of investors in the absence of a corresponding rule of law. An example of such a situation is the Resolution of the Supreme Court dated March 20, 2019 in case No. 761/20612/15-ts, where in the motivational

part the Court noted that the impossibility of fulfilling the obligation is manifested in the following, the commissioning of the construction object did not take place within the terms established by the contract, the Company with limited activity “Firm “Consol LTD” ceased its activities – this calls into question the possibility of it fulfilling its obligations under the contract. It seems that the application of such a method of protection as the recognition of property rights to an investment object is due to the fact that a person has a right of expectation but does not have objectively determined and sufficient grounds for acquiring the right of ownership due to non-commissioning of the real estate object, lack of state registration.

At the same time, the Supreme Court must ensure a fair trial without favoring any of the participants in the trial. Excessive protection, both in the legislation of Ukraine and by the courts of one of the parties to the investment activity, can lead to a violation of the investment climate.

The Conclusions. The autopoiesis method made it possible to show the influence of economic and legal elements on the effectiveness of investment policy. This method provided an opportunity to illustrate the multi-competence of investment policy as a social phenomenon. Using the method of description, the main aspects of previously conducted research by legal scholars and economists, which were used in this study, were highlighted. This made it possible to determine the components of an effective investment policy for Ukraine, taking into account the consequences of full-scale aggression by the Russian Federation. With the help of the structural and functional method, the following components of the effectiveness of investment activity are distinguished: definition of areas of investment; consideration of territorial capital; use of innovative technologies to attract investments; improvement of the legal mechanism that ensures the proper implementation of investment activities; protection of investors' rights. The method of analysis was used throughout the study.

The conclusions obtained as a result of the research can become the basis for further economic and legal studies of investment activity in Ukraine. In particular, research on changes in the components of effective investment policy, the use of modern technologies to attract investments, etc., are promising.

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