

Cancellation of Franchising Agreement Registration Requirements

The legal regulation of franchising caught close attention of Ukrainian state authorities during the past twelve months. The developments introduced into the legal framework have been of positive nature, which should be helpful for parties to franchising arrangements. We are happy to let you know that Olena Vardamatska, Associate of the Wolf Theiss Kyiv office, was involved in working on these legislative changes.

Looking back at history, in September 2014 the Ministry of Justice of Ukraine approved the procedure for registration of franchising agreements (which came into effect on 21 April 2015). Further, as a result of deregulation efforts of the Ukrainian Government and the Parliament, the Law of Ukraine "On Amendment of Certain Laws of Ukraine Concerning Simplification of Business Activities (Deregulation)", no. 191-VIII dated 12 February 2015 (the "**Deregulation Law**") was adopted and became effective on 5 April 2015. Under the Deregulation Law, the obligation to register franchising agreements, along with a number of other registration and approval requirements, was entirely cancelled in order to remove excessive regulation of this commercial activity.

In particular, the Deregulation Law amended Articles 367, 370 and 374 of the Commercial Code of Ukraine and Articles 1118, 1120, 1125 and 1126 of the Civil Code of Ukraine. The amendments removed from the mentioned Codes all references to the obligation of the parties to register franchising agreements (including an obligation to register the amendments thereto and termination thereof).

Our office participated in the preparation of the section of the draft Deregulation Law on franchising on a *pro bono* basis (in cooperation with a think tank organization Easy Business as well as the Ministry of Economic Development and Trade of Ukraine). Following the discussions with legal experts from the leading Ukrainian companies, we proposed a number of amendments to the existing franchising legal framework. Some of our proposed amendments, including those related to the termination of the franchising agreements registration requirement, were incorporated into the draft Deregulation Law and became part of the current Ukrainian legislation.

The cancellation of the mandatory registration is expected to significantly increase the use of franchising agreements. Historically, business in Ukraine avoided concluding franchising agreements (called the commercial concession agreements under Ukrainian law) in Ukraine due to the obligation to register the same, while the registration procedure was not actually provided for until 2014. Instead, different, sometimes artificial legal mechanisms, were used to avoid the conclusion of franchising agreements.

While the eventually approved registration procedure enabled parties to perform registration of franchising agreements, the registration requirement was entirely repealed

beginning 5 April 2015 (the date of taking effect by the Deregulation Law). The companies may now freely enter into and amend franchising agreements without spending extra time, costs and resources on registration procedures. Besides, taking into account numerous imperfections of the abovementioned registration procedure, companies will certainly benefit from the possibility not to be bound by it.

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