

Annotation
of the dissertation for the degree of Doctor of Law of
Veselkova Evgeniya Evgenievna
on the topic: Legal regulation of foreign investments: civil studies
(speciality 12.00.03 - civil law; entrepreneurial law; family law; international
private law)

The relevance of the dissertation topic is beyond doubt. Currently, in the context of globalization, no country in the world is capable of developing without participation in the world economic system, and the higher the level of integration into the world economy, the more significant the degree of development of the domestic economy. The general trend indicates that the more active a country is in world economic cooperation, the higher and more significant the level of development of its domestic economy, and vice versa.

In modern conditions, one of the distinguishing characteristics of international economic interaction is the strengthening of the importance of investment cooperation between states. This phenomenon is dictated by the expansion of interstate economic integration and the desire of countries to increase the volume of attracted foreign investment in their national economy, as well as expand the scope of foreign capital.

The problem of attracting foreign capital has become especially important for Russia at the stage of market economy development in connection with the revival of foreign economic activity and the country's involvement in the global management system.

Due to the high vulnerability of foreign entrepreneurs, the primary task of the legislation regulating foreign investment is to ensure effective legal protection of foreign property. Of great importance in this direction is also the establishment and consolidation of clear and understandable rules regarding the activities of foreign investors in the Russian domestic market, regulation of the method of admitting foreign investors into the national economy of Russia, determination of

organizational and legal forms for the implementation of foreign investments. The central role in the legal regulation of foreign investment is played by the internal law of states, while the role of international bilateral and multilateral regulation is very noticeable. This issue is of particular relevance in connection with the political course to improve the national economy of the Russian Federation, to actively attract and mobilize foreign investment in order to accelerate the innovative growth of the country's economy.

The current stage in the development of globalization of international economic relations is characterized by an increase in investment cooperation on a multilateral basis, as a result of which unified international standards and benchmarks in the field of foreign investment are formed and implemented. This process involves the preparation and signing of multilateral international agreements, in accordance with the provisions of which the country participating in the agreement undertakes to follow the rules and principles of activities for the implementation of foreign investments established in public international law. Taking into account the importance of Russia's participation in international cooperation on foreign investment, the top priority in improving the investment climate and attracting foreign investment should be to improve national legislation on the legal protection of foreign investment, which to a greater extent regulates investment relations.

The changed role and place of foreign investment in the Russian economy, the growing importance of national legislation in the regulation of foreign investment relations, the increased need for legal protection of foreign investment, the urgency of understanding of the ongoing changes from the standpoint of the science of civil, entrepreneurial and private international law and the search for means of establishing optimal correspondence between them, further improvement of the conceptual and categorical apparatus in this area dictate the need for new scientific research. This work is devoted to these and other problems.

The purpose of the dissertation is to carry out a comprehensive conceptual comprehensive study of the ordering and determination of the ratio of international legal and national legal mechanisms that ensure cross-border movement of capital

from the standpoint of a modern view of the innovative way of development of the Russian economy, to develop theoretical provisions and practical recommendations aimed at improving the legal regulation of foreign investment.

The set goal determined the following research objectives:

- to develop a doctrinal definition of foreign investment;
- to formulate a doctrinal definition of foreign investment;
- to clarify the range of subjects of foreign investment and determine the criterion for designating the nationality of an international legal entity;
- to substantiate a model for a comprehensive understanding of the legal regime of foreign investment;
- to determine the legal nature of investment disputes and develop a doctrinal definition of this concept;
- to study the institution of legal protection of foreign investments and formulate its doctrinal definition;
- to concretize the system of legal forms of foreign investment;
- to propose a classification of investment agreements;
- to substantiate the necessity of adopting a new Federal Law "On Investment Treaties of the Russian Federation" and to develop its concept;
- to prepare a classification of guarantees for the rights of foreign investors;
- to propose amendments to the 1999 Federal Law "On Foreign Investments in the Russian Federation" in relation to guarantees of the rights of foreign investors;
- to motivate the need for further development of legal regulation of foreign direct investment in the Russian Federation within the framework of the legislation regulating the activities of domestic investors;
- to study the evolution of international legal regulation of foreign investment and determine its stages;
- to analyze the development of legal regulation of foreign investment in the Russian Federation and identify its periods;
- to identify trends in the formation and formation of the legislation of the Russian Federation in the field of legal regulation of foreign investment.

The degree of scientific elaboration of the topic. A significant amount of research has been devoted to the problem of foreign investment in both domestic and foreign doctrine. At the same time, it should be emphasized that a coupled scientific analysis of the legal regulation of foreign investment, which allows monitoring the legislation of Russia, examining the positive practices of foreign states and comprehending the newly emerging directions in the legal regulation of foreign investment, which have been determined recently, has practically not been carried out.

The object of the research is the totality of public relations in the field of legal protection of foreign investments.

The subject of the research is international legal documents developed within the framework of the UN, IMF, IBRD, UNCTAD, OECD, CIS, EurAsEC, EU, legislation of the Russian Federation and foreign countries (China, Brazil, Argentina, Great Britain, France, Germany, Italy, Japan) and international treaties with their participation in the field of foreign investment.

The methodological basis of the dissertation research was formed by the dialectical method, which makes it possible to analyze the studied phenomena and processes in their evolution, interconnections and discrepancies with each other. The dissertation widely used the systemic method, with the help of which a comprehensive analysis of the problems associated with the development, formation and application of investment legislation both at the federal level and in the constituent entities of the Federation was carried out.

In the work, when considering the history of the development of international legal regulation of foreign investment and national legal regulation of foreign investment, the activities of the WTO in this area, analysis of the problems of correlation between international and national law in the field of legal protection of foreign investment, considerable attention was paid to the historical approach, and special methods were applied - concrete-historical, formal-logical and structural-functional. A separate place in the study belongs to the methods and techniques of comparative jurisprudence, with the help of which the main trends in the formation

and development of international legal and national legal regulation of foreign investment were identified, and the analysis of the conceptual and categorical apparatus in the field of legal protection of foreign investment was carried out. In the study of the legal forms of foreign investment in the Russian Federation, the development of the concept of legal protection of foreign investment and the study of guarantees of the rights of foreign investors, in addition to the above scientific methods, the method of legal analysis was actively used along with other private scientific methods.

The theoretical foundations of the dissertation were developed as a result of analytical and comparative legal study of doctrinal and legal materials and scientific literature on the general theory of state and law, on international public and private international law, on the legal regulation of foreign economic and investment activities, on the problems of economics, international economic relations and globalization, foreign and domestic legislation in the field of foreign investment regulation, indicated in the bibliographic section of the thesis. The regulatory framework of the study was formed by international legal documents, legislation of the Russian Federation and foreign countries in the field of foreign investment.

Research information base. The dissertation examines and analyzes the current legislative and other regulatory legal acts of the Russian Federation, the legislation of foreign countries, as well as documents of international organizations. Equally with the norms of the current legislation of the Russian Federation, the provisions and norms of the normative legal acts previously in force in Russia in the field of foreign investments have been worked out (the Law "On Foreign Investments in the RSFSR" 1991, the Law "On Investment Activities in the RSFSR" 1991).

The data of judicial statistics were analyzed and considered (Supreme Court of the Russian Federation), including decisions of foreign and national arbitration and arbitration courts (ICSID, CIS Economic Court, ICAC at the RF CCI).

The validity and reliability of the results of the dissertation research are confirmed by the methodology, the information base, which is based on theoretical and practical material collected at various stages of the research from 2007 to 2020.

To ensure the objectivity and comprehensiveness of the study, the results obtained were compared in terms of compared positions with the data of sample studies in the country as a whole, as well as with the data of previous studies.

This allows us to consider the studied material as representative with the necessary degree of confidence, and the conclusions drawn as justified. In his conclusions, the dissertation candidate took into account the theoretical foundations and approaches to the main institutions of the branches of law considered in the dissertation, set forth in the works of domestic and foreign scientists, to varying degrees, touching upon the problem under study.

The scientific novelty of the dissertation research lies in the fact that in the domestic legal science the presented work is a complex conceptual comprehensive study of the ordering and determination of the ratio of international legal and national legal mechanisms that ensure the cross-border movement of capital from the standpoint of a modern view of the innovative path of development of the Russian economy.

In the dissertation the doctrinal definitions of foreign investment, foreign investment, investment disputes were developed; a model for a comprehensive understanding of the legal regime of foreign investment was substantiated; the institution of legal protection of foreign investments has been studied and its doctrinal definition has been proposed; the system of legal forms of foreign investment has been concretized; classification of investment agreements is proposed; the criterion for designating the nationality of an international legal entity has been determined; the necessity of adopting a new Federal Law "On Investment Treaties of the Russian Federation" is substantiated and the concept of this law is proposed; a classification of guarantees for the rights of foreign investors has been prepared; proposed amendments to the 1999 Federal Law "On

Foreign Investments in the Russian Federation” in relation to guarantees of the rights of foreign investors; motivated the need for further development of legal regulation of foreign direct investment in the Russian Federation within the framework of legislation regulating the activities of domestic investors; the evolution of international legal regulation of foreign investment and legal regulation of foreign investment in the Russian Federation has been studied; their stages are determined, respectively; the tendencies of the formation and formation of the legislation of the Russian Federation in the field of legal regulation of foreign investment are revealed; the concept of further development of the country's investment legislation has been formulated.

The novelty of the research topic, the scientific and practical significance and relevance of the issues and problems under consideration, as well as the results of their resolution, conclusions and recommendations allow us to define this dissertation work as a new scientific direction in domestic jurisprudence. The scientific novelty of the dissertation research also lies in the theoretical and practical provisions formulated by the author and presented for defense.

The theoretical and practical significance of the dissertation lies in the fact that the conclusions and main provisions contained in it can serve as a basis for further research on international law, private international law, investment law, the general theory of state and law, for sectoral scientific works related to the problems of legal regulation of foreign investing. The research materials make it possible to gain a deeper understanding of the problems and get an idea of ways to improve the legal regulation of foreign investment, as well as the interdependence of the economy, law and the state.

The conceptual conclusions, proposals and recommendations contained in the dissertation can be used in the process of implementing international investment relations, taken into account in the theoretical development of various concepts of investment law, taken into account in the process of current lawmaking, when updating the legislation regulating foreign economic activity, related branches of legislation, taken into account when preparation of by-laws by ministries and

departments, used for scientific purposes in the preparation of monographs, dissertations, articles, scientific and methodological literature.

The theoretical and practical conclusions obtained in the dissertation, generalized and systematized information, information, recommendations and developments can be used in the development and improvement of relevant training courses (special courses) of civil law, international law and economic orientation, as well as in the educational process when conducting classes in specialized higher educational institutions.

The materials of the dissertation research can be used in training centers for the retraining and advanced training of lawyers - international affairs and economists - international affairs and equally be useful for practicing specialists of international, foreign and Russian financial and economic ministries, organizations, associations and departments.

Approbation of research results. The main provisions, conclusions and results of the dissertation research were discussed at the Department of Civil Law of the Russian Academy of Advocacy and Notaries. The results and conclusions of the study were reported at the Sixth International Scientific and Practical Conference "Society-Language-Culture: Problems of Interaction in the XXI Century" (Moscow, 2011), at the All-Russian Scientific and Practical Conference "Analysis of the Legislation of the Russian Federation on the Support of Science and Innovation: problems of practice and ways of development "(St. Petersburg, 2012), at the International scientific and practical conference " Socio-economic prospects of Eurasian integration: realities and problems "(Moscow, 2015), at the International scientific conference " Science and education : Development Vectors in the Modern World "(Moscow, 2016), at the International Scientific and Practical Conference " Legal Support of National Security and Public Administration: Theory and Practice "(Moscow, 2018), at the International Scientific and Practical Conference " Actual problems of modern legislation "(Moscow, 2020).

Research materials are used in the educational process of the Moscow Academy of Finance and Law.

The materials of the dissertation are reflected in the publications of the author with a total volume of 230 pp.

The work consists of their introduction, five chapters, uniting sixteen paragraphs, conclusions, bibliography, applications.

The first chapter "Genesis and the formation of a conceptual and categorical apparatus in the field of legal regulation of foreign investment", consisting of three paragraphs, analyzes the concept, features and characteristics of foreign investment as a legal category, the concept and regulation of the legal status of a foreign investor in Russian legislation, the problems of legal content legal regime of foreign investment and doctrinal approaches to its solution in private international law.

In the second chapter "Correlation of legal protection and legal guarantees of the rights of foreign investors in the Russian Federation", which combines two paragraphs, analyzes the concept and significance of legal protection of foreign investments and guarantees of the rights of foreign investors, non-commercial risks of foreign investors in the Russian market as the basis for legal protection of foreign investments.

The third chapter "The essence and classification of legal forms of foreign investment in the Russian Federation" contains two paragraphs, which are devoted to the study of organizational and legal forms of foreign investment.

The fourth chapter "The mechanism of legal regulation of foreign investment in the context of globalization" includes five paragraphs, which consider the history of the formation of the international legal mechanism of legal regulation of foreign investment, the universal legal mechanism of investment cooperation of the world community, investment cooperation of states at the regional level, bilateral cooperation mechanism states in the field of foreign investment, especially the national systems of legal regulation of foreign investment in foreign countries.

The fifth chapter "Theoretical and methodological issues of the development of the legislation of the Russian Federation in the field of legal regulation of foreign investment" in four paragraphs study the evolution of legal regulation of foreign

investment in Russia, the axiological foundations of building the system of legislation of the Russian Federation in the field of legal regulation of foreign investment, the relationship between international law and domestic rights in the legal regulation of foreign investment, prospects for changes in Russian legislation in the field of foreign investment as a result of joining the World Trade Organization.

The dissertation concludes with conclusions, made recommendations, and identified new emerging trends in the legal regulation of foreign investment.

The appendix presents the concept of the Federal Law "On Investment Treaties of the Russian Federation", the main idea of which is clear legislative regulation, separation and classification of investment treaties of the Russian Federation.

The concept of the Federal Law "On investment treaties of the Russian Federation", in addition to the main idea, includes the goals and subject of legal regulation, the objectives of the law, the circle of persons to whom the law applies, their new rights and obligations, determines the place of the future Law in the system of current legislation, indicating the branch of legislation , to which it refers, the provisions of the Constitution of the Russian Federation, federal constitutional laws and system-forming laws of the Russian Federation, the implementation of which this draft law is aimed at, as well as the significance that the draft law will have for the legal system, gives a general description and assessment of the legal regulation of the relevant legal relations, determines socio-economic, political, legal and other consequences of the implementation of the future Law.