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CONVERTIBLE LOAN AGREEMENT FOR IT-BUSINESS IN BELARUS

The President of the Republic of Belarus has recognized the adoption of the Decree № 8 “On the Development of the Digital Economy” in December 2017 as a revolution in IT-sphere. And in practice it was true. The Decree legalized some new technologies known as blockchain, smart-contracts and cryptocurrency. However, these novels were not the only ones. What is less discussed but not less important is the fact that the legal act also concerns the experimental implementation of English law institutions in our legal system.

The institutions including a convertible loan agreement are extremely popular tools of investment in start-ups abroad. However, such investment mechanisms had been unavailable and unknown in Belarus until the adoption of Decree № 8.

Let us look at the legal nature of a new institute of English law – a convertible loan agreement. According to the Decree, under a convertible loan agreement, one party (loaner) transfers money to the other party (borrower) into the ownership. Upon the occurrence of a circumstance determined by the agreement, including the will of the borrower and (or) the loaner, or when the borrower or third parties take actions specified by the agreement, the borrower transfers the shares owned by the borrower to the loaner, a share in the authorized capital of the borrower that is on the balance sheet of the borrower, or increases the authorized capital by the amount of convertible loan with the transfer of shares issued by the borrower to the loaner, or a share in the authorized capital of the borrower [1].

In a valid convertible loan agreement, there should be three main conditions: Maturity Date, Conversion Discount and Conversion Valuation Up. Moreover, the agreement can include other terms aiming to protect each party. The specialists of one of the leading Belarusian law firms “Revera” consider that the conditions of a convertible loan agreement are similar in Belarus and the states of Anglo-Saxon system of law [2]. But this is in theory. And does it work in practice?

In the Supreme Court of the Republic of Belarus, a round table discussion was held to examine the issues related to the judicial practice of resolving disputes on loan agreements, including convertible loan agreements, on January 23, 2019 [3]. The participants came to the conclusion that the provisions of a convertible loan agreement needed to be elaborated.

A number of Belarusian lawyers say that the institute of English law has already shown itself from the best side [2]. Today undisputed advantages of convertible loans for IT-business have become obvious. The most significant of them are the following:

1. **Investment attractiveness.** It is evident that foreign investors would more willingly give loans under familiar terms. Moreover, our legislators canceled a range of legal restrictions, which had been in the corporate law according to Clause 5 of the Decree [1]. This fact may also attract investors into IT-sphere because they can choose among several ways of investing including a convertible loan agreement. At the same time, this form of an agreement is experimental and is currently available only in IT-sphere.

2. **Simplicity.** A convertible loan agreement is easier to conclude in comparison with the other kinds of contracts pertaining to IT-sphere.

3. **Speed.** Entering into a convertible loan agreement is comparatively fast as it takes place at the outset of a business activity and does not require the loaner to be a part of the start-up company.

To sum up, we can draw a conclusion that not only the Belarusian legislation is experiencing a new round in its development by implementing the new institutes of English law, but also the Belarusian businesses and IT sphere. A convertible loan agreement is revolutionary for the sphere of investments and for business as a whole.

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2. Английское право и Беларусь [Электронный ресурс] // dev.by. – Режим доступа: <https://dev.by/news/angl-pravo-konvertiruemyu-zaem>. – Дата доступа: 29.02.2020.

3. В Верховном Суде состоялся круглый стол по вопросам, связанным с судебной практикой разрешения споров, вытекающих из договоров займа [Электронный ресурс] // Национальный правовой Интернет-портал Республики Беларусь. – Режим доступа: <http://pravo.by/novosti/obshchestvenno-politicheskie-i-v-oblasti-prava/2019/january/32290/>. – Дата доступа: 01.03.2020.

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HUMAN CAPITAL IN THE IT SPHERE OF THE REPUBLIC OF BELARUS: STATE AND PROSPECTS FOR DEVELOPMENT

The development of all countries of the world has led to the emergence of a new economy – the economy of information and knowledge, innovation. Human capital for a company, in particular the IT sector, is an intangible asset or quality that is not in the balance sheet of the company. It can be classified as the economic value of the