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## Research Article

### FOR BUSINESS ACTIVITY TO PROGRESS, IT IS ESSENTIAL TO ADHERE TO ITS PRINCIPLES

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#### ABSTRACT

The speaker critiques Uzbekistan's laws regarding entrepreneurship and private property, asserting that they lack confidence and do not adequately serve or protect business entities. Despite recent reforms making economic courts more progressive and transparent, they still fail to meet entrepreneurs' needs due to the state's misunderstanding of their operation. Many issues stem from contradictory laws, excessive regulation, undue state interference, and misaligned attitudes towards entrepreneurship. It's stressed that private property and entrepreneurship laws must emphasize rights and interests rather than rules and restrictions, and the only link between entrepreneurs and the state should be through the tax system. The speaker underscores that the interests of entrepreneurs ultimately benefit society and the state.

#### KEYWORDS

Entrepreneurship, Private Property, Legal Regulations, Economic Courts, State Interference.

#### INTRODUCTION

Usually, a principle is a general rule that is used as a basis for any activity or it can be understood as the main rules of a theory or the world outlook. The term principle is of Latin origin "principium", which means the basis, the beginning, and of the Greek origin "arxh" - the first, and is referred to as a "postulant" statement in scientific theories and laws, regulatory acts. In this

sense, principles play a significant role in science, ethics, socio-politics, and other fields. Science-related examples include the "mechanics" of Isaac Newton and the "theory of relativity" of Albert Einstein, which are based on significant ideas like logic and relativity. Thus, morality is also strongly based on internal beliefs and views that a person adheres to.

People rely on a number of principles - values - in daily interactions and behavior. When analyzing the surrounding reality, scientists also base their work on one or more guiding principles.

The phrase “this person or this official has his own principles, he is a ‘principled’ leader” is occasionally heard among people. This essentially indicates that the leader follows a generally accepted fundamental principle of law, science, or ethics.

Sometimes they say “one has his own principle”. If one relies on principles in his activities, that is good. But if one relies on another ‘rule’ instead of the main principle in his activity, it is bad.

Along with various fields, generally recognized principles employed as a single foundation play an important role in the field of business activity. In this sense, it is suitable that everyone abided by the fundamental guidelines in this area, or, to put it another way, that nobody established any new rules (of their own).

Business activity develops around the world based on its unique principles that are outlined in the written and unwritten laws of each nation. These principles include: lawfulness, freedom of entrepreneurship, equality of business entities, fair competition, the balance between the interests of the state, business entities and consumers, transparency in the activities of state bodies and open access to information, effectiveness of state regulation of entrepreneurship, priority of crime prevention, presumption of good faith of business entities, the absence of corruption, encouraging the development of entrepreneurship, preventing illegal interference of the state in the activities of business entities, the participation of business entities in law-making, encouraging social responsibility of entrepreneurship, limited

participation of the state in business activities, priority of rights of business entities.

Most of the aforementioned principles are sporadically stated in our national legislation, and they are not considerably put into practice, or, to put it another way, they are ineffective.

The same principles of business activity are now systematically and thoroughly outlined in the proposed “Business Code of the Republic of Uzbekistan” that is being discussed by the public, which can be seen as a progressive step.

The issues within the context of this research are, first, to ascertain the legal standing of the business activity principles in the regulatory acts, second, to analyze the justifications for why certain principles are not operating in practice, and third, to state the measures and proposals intended to address the issues.

So, we will critically analyze the current state of the principles regulating business activity.

First of all, the principle of lawfulness in business activity:

According to this principle, state bodies and their officials in the course of state control of entrepreneurship, business entities when carrying out business activities are obliged to comply with the Constitution of the Republic of Uzbekistan and other regulatory acts.

Therefore, this principle defined in our legislation should compel state agencies and officials to uphold the law when dealing with entrepreneurs.

This principle is consistently broken in practice, as is evident.

For instance, in the previous five years, local governments issued more than 4,000 decisions that were contrary to the interests of businesspeople, and these decisions were declared invalid by administrative courts.

The principle of freedom of entrepreneurship:

Entrepreneurial freedom is the right of every person to do lawful business on all of the territory of the Republic of Uzbekistan and outside, as well as to utilize their property for such purposes. Any activity that is not illegal may be carried out by business entities.

Even though it should be consistently applied to ensure that entrepreneurs in our country can act without hesitation and engage in any activities not prohibited by law, there is still an ongoing bureaucracy in the field, some statutory documents that are against the law, and some oral orders and assignments that run counter to the aforementioned principle.

### **Equality of business entities:**

Business entities are treated equally under the law and in court, regardless of their ownership structure or any other status, according to current legislation. Business entities are considered to have equal opportunities in doing business.

This principle is broken when benefits and guarantees are given to some businesses. Fair competition is another important principle of business activity. The core of this principle is the forbiddance of conduct that result in unfair competition, competition restrictions, or rivals being excluded from the relevant market.

Anti-monopoly regulation is practiced in the Republic of Uzbekistan in order to ensure the free flow of goods (work, services), freedom of economic activity, the unity of the economic environment, the creation of

conditions for the successful operation of commodity markets, and the protection of competition.

One of the most important principles of this activity is to maintain a balance between the interests of the state, business entities and consumers.

In order to secure the greatest protection of consumer rights with the least amount of objective burden on commercial entities and to ensure a suitable level of safety of activities or acts, the state has introduced several forms and methods of regulating entrepreneurship.

State bodies (in the implementation of state regulation of entrepreneurship) are not entitled to require documents and (or) additional information from business entities that are not provided for by legislation.

Mandatory requirements established by law for the implementation of entrepreneurship should be a set of minimum conditions, standards and indicators sufficient to ensure the appropriate level of operational safety for business entities.

Another crucial principle is the transparency in the activities of state bodies and open access to information. Thus, the information available in state bodies and considered necessary for business entities should be open for use, if they do not have state secrets, and their use is not restricted or prohibited by regulatory acts.

The presumption of good faith of business entities has an incomparable place in this business activity. Its main point is that all activities taken by business entities in the course of the state's regulation of entrepreneurship are presumed to have been made in good faith unless and until the contrary is established through a formal process.

A business entity is considered ‘a company with good faith’ (conscientious) if it complies with the requirements established by legislation in the exercise of its rights and legal interests and (or) in the performance of its obligations.

Until a court or an authorized state authority finds otherwise, official information provided by commercial entities to state bodies is believed to be accurate (reliable).

The principle of not allowing the state to interfere illegally in the activities of business entities. This principle does not allow state power and management bodies, organizations, institutions, citizens' self-management bodies and their officials to interfere with the activities of business entities carried out in accordance with the law.

So, how are these principles working in practice?

For instance, administrative courts invalidated 1,255 local authority decisions in 2019, 1,597 in 2020, 2,184 in 2021, and 1,700 in 2022, as well as billions of dollars recovered from economic courts in favor of business entities. It is evident that not enough attention is being devoted to business activity's guiding principles.

If the issue facing the entrepreneur and the owner is the focus of today's discussion, I would like to provide the following observations.

It is necessary to admit that the problems that the owner and entrepreneur are experiencing today are primarily in our laws. Why?

Because we were unable to provide a strong enough legal foundation for the growth of private property and business with the laws that were established from the start. I don't intend to critique all of our laws. However, I do not mean to criticize our total laws.

For instance, the Constitution of the Republic of Uzbekistan states that different types of property serve as the foundation for the country's economy, which is geared toward the growth of market relations. The state ensures freedom of economic activity, entrepreneurship, and employment as well as equal rights for all types of property and legal protection while also taking into account the supremacy of state consumer rights.

Like other types of property, private property is untouchable and backed by government protection. It is required that the use of property respects the ecological environment and upholds the legal rights and interests of the state, its citizens, and other legal entities.

Here the question arises why “private property is inviolable like other forms of property”, why other forms of property are not like private property.

Or why the use of property does not necessarily violate the rights of the state. Isn't the state itself the guarantor of private property?

So, I think that, since it was the era of independence, even if we keep other laws, some of the norms regarding private property and entrepreneurship in our basic law are not written with full confidence in private property and entrepreneurship.

In light of this, the laws of the Republic of Uzbekistan “About Property in the Republic of Uzbekistan”, “About Rent” and a number of other laws pertaining to real estate and business that govern the purchase, use, and ownership of property, could not demonstrate their superior legal force in practice.

“Private property is inviolable and protected by the law, just as other types of property”. Why didn't we mention that it is protected by the law. It's possible



that the concept of the state as the controller of property evolved from its original role as the protection of property.

As a result, the state is a reformer and controller. The laws “On State Control of Economic Entities” and later “On State Control of Business Entities” came into the legal arena, the result of which is known to everyone.

We have more than 10,000 regulatory acts related to entrepreneurship and property.

For example, let's take a sole proprietorship. Although this type of business activity is mainly regulated by the Civil Code of the Republic of Uzbekistan and the Law of the Republic of Uzbekistan “On Guarantees of Freedom of Entrepreneurial Activity”, in practice it is regulated by more than 40 regulatory acts.

Additionally, these documents are in use. Any barriers to private property and business have been crafted into the legal instruments. It won't be simple to improve and clean up this legal environment.

For today's business owner and entrepreneur, the assignment and lobbying system, which is the product of countless regulatory acts, is also a major problem.

Nobody is surprised by the unpleasant reality that the decisions made during screenings and meetings, along with some illegal documents accepted by some officials and written and verbal directions given to businesses by them, are systematically harming the entrepreneur and the owner.

For example: some higher officials want to inspect the improvement/construction works in the areas. In this case, the entrepreneur performs beautification, repair, construction works, or the entrepreneur is forced or voluntarily involved in doing such work on the basis of the immediate verbal or written instructions of the

officials in that area, that is, the district governor or the head of the sector. Later, the entrepreneur will not be paid for the work s/he has done or will not be issued a document for the building he has built. Such situations are common in practice.

The building that the entrepreneur constructed as part of an action for the improvement of the territory by putting their trust in the official is also an undocumented and illegal structure. Also, there is no legal basis for payment of fees for the work performed by the entrepreneur on the basis of a verbal order.

When these cases are examined, neither district nor regional authorities have this kind of power to give the entrepreneur instructions. It was found that the tasks given were not in accordance with the law.

Or let's take the task of an official who forces a commercial bank to give a loan to an entrepreneur. On the one hand, it is a good deed, that is, the loan issues is solved for the citizen on the spot. But this situation is against the laws. In any case, the loan agreement should be bilateral, the product of the mutual consent of the parties, and should not work to the detriment of the banks, which are business entities. The agreement should be drawn up freely. This is also a bad habit of bureaucratic officials who adheres to assignment-accomplishment system.

First of all, the ongoing reforms in state policy pertaining to justice and the law are intended to ensure justice and the rule of law, find practical solutions to disputes other than those that can only be resolved through court decisions, and provide as much satisfaction to those who apply to the court from the court, society, and the state.

Accordingly, the reason why today's economic courts are better than those from five or six years ago is

because they are progressive, open, transparent, and ensure the judges' material and social independence.

Even though it hurts, I must admit that we haven't yet been able to adequately defend the businessman's requests in court. To claim that the owner's and the entrepreneur's rights and guarantees are adequately granted in the economic courts would be an understatement. The factual situation, though, is that some authorities still do not understand how courts operate.

Because these cases are closely related to the legislation, as I said above. For example, a plaintiff filed a lawsuit in which the plaintiff (the second party defendant) asked the court to order the government entity to renew (extend the period) its lease.

First of all, we all know that it is now established by decree that property rent can be realized only through auctions.

Secondly, according to the Law of the Republic of Uzbekistan "About Rent" and the Civil Code of the Republic of Uzbekistan, the tenant who is using the property has a preferential right in the lease of that property. Tell me how the court will decide in such a case.

Another issue to consider deeply is the principle of equality in business activity, authorized organizations are given the right to appeal to the courts for the protection of businessmen without payment of duty. At this point, the question arises, if the responsible party is also an entrepreneur, is it not contrary to their principle of equality?

In accordance with the data, 50 of the more than 6,000 claims submitted by authorized organizations during the first half of 2022 were not attended by representatives of these organizations, and 149 of

those claims were denied. Court costs in this situation must be paid by the interested party, which is the business entity, in accordance with the law in effect.

Do you believe it is just that the entrepreneur should pay the court expenses if the responsible authority loses the case in court, despite the fact that this is required by law? After that, will the businessperson consent to pay the court's costs? Obviously not? Therefore, the entrepreneur will always disagree with the court in such situations.

There are such cases in practice where a state organization sues another entrepreneur for the benefit of one entrepreneur. Such cases are evidence that the principle of equal rights of business entities is being violated in courts.

Another point, the prosecutor can still file a protest in the courts regarding disputes arising from contractual relations between two business entities. This situation is not in the interests of the entrepreneur who is considered as a second party.

In addition, the economic court has a large workload, and this factor itself affects the timely conduct of court proceedings and the quality of court decisions, the rights and interests of entrepreneurs and owners.

Unfortunately, such cases are not in accordance with the principles of entrepreneurial activity, which means that we still have a lot of work to do in terms of fully solving the problems of entrepreneurs and owners in courts.

On the one hand, as we stated above, it is evident that we are unable to completely transition to the system of legal management in the field of business activities due to the increase in tasks and instructions, such as tasks and instructions related to their activities that are

not outlined in the law, instructions that are above the law, mandatory-voluntary sponsorship, etc.

Fortunately, the frequently heard statements from pulpits that “we do not need big owners” - views that contradict the Constitution of the Republic of Uzbekistan have been eliminated thanks to the political determination of our nation's leader.

On the other hand, entrepreneurs' view of business activity is as follows:

Consider a recently founded small company organization that claims in an interview that it will grow and create 10 jobs by starting the business with 10 sewing machines. Or a businessman who has made 100,000,000 UZS declares that he will get married, get a car, and perform the Hajj. Actually, in the first example, the employment of 10 people is temporary rather than full-time, and the job is evaluated according to the entrepreneur's progress and income. Furthermore, in the second example, the entrepreneur should have thought about expanding the business, take new directions, apply creativity to their work, and it to consider exporting and expanding globally.

Therefore, it can be argued that for the time being, private property and entrepreneurial laws should be as flawless as they can be, with an emphasis on rights and interests rather than rules and limitations. That is, in this area, legal standards should place more emphasis on ensuring results than on how to organize the work.

Regulatory acts should also be discarded fearlessly. Additionally, for the courts to fully justify the entrepreneur's confidence, they must meet all necessary requirements for independence, be powerful enough to do so, and be able to speak freely without worrying that the court will rule against them. This should be done on a regular basis. Finally, it is vital

to alter how government agencies, their employees, and business owners themselves view private property, business operations, and the discipline that should be applied to contractual relationships.

The change in attitudes means that everyone must follow the principles of entrepreneurship on the same line.

A basic tenet of this viewpoint is that the sole mechanism connecting the entrepreneur with the state body should be the tax authorities or system; no burdens other than taxes, especially entrepreneurs should not be among the subjects attracted to the meeting and/or sponsorships or favors. It is necessary to abandon the view that filling the state budget is primary on the cost of business entities, and then the interest of entrepreneurs and owners must be priority. It's critical to remember that modern nations have learned the hard but rewarding lesson that the interests of the entrepreneur ultimately serve those of society and the state, with the result being the welfare of the populace and the advancement of the state.

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