



LEGAL RULES RELATIVE TO INTERNATIONAL STANDARDS

- The content of generally accepted standards on investment
 - (e.g., non-discrimination tenet, recognition of property concepts, facilitating market entry and exit, accommodating of investor's interests, support of criminal laws)
- Measuring the extent to which laws of the region approximate generally accepted standards on investment



THE EFFECTIVENESS OF LAWS AFFECTING INVESTMENT

- How clear and accessible is the law affecting investment?
 - (e.g., textual clarity and consistency, public participation in lawmaking, dissemination of laws, legal advice)
- How well supported administratively is investment law?
 - (e.g., efficiency of administrative agencies, bankruptcy, prosecution of corrupt practices, the example of registers)



USE OF SURVEY RESULTS

- Annex 6.1: Illustrative description of four criteria/categories described above
 - How extensive are the legal rules fostering investment?
 - How clear and accessible is the law affecting investment?
 - How well supported is the law administratively?
 - How well supported is the law judicially?



THE EFFECTIVENESS OF LAWS AFFECTING INVESTMENT

- How well supported judicially is investment law?
 - (e.g., independent judiciary, judicial review, procedural due process, preparedness of courts to rule against the government)
- Measuring the effectiveness of investment laws of the region



EBRD SURVEY ON THE CONTRIBUTION OF LAW TO FOSTERING INVESTMENT

- The need for a survey
- Survey conducted among:
 - Ministers of Justice
 - Private sector law firms
 - Academic consultants



USE OF SURVEY RESULTS

- Commentary to Annex 6.1
- Table 6.1: Grading of investment laws of each country



TABLE 6.1: OVERALL SCORE

| | Extensiveness | Effectiveness | Overall Score |
|-----------------|---------------|---------------|---------------|
| Czech Republic | 4 | 4 | 4 |
| Hungary | 4* | 3 | 4 |
| Poland | 4* | 3 | 4 |
| Bulgaria | 4 | 3 | 3 |
| Croatia | 3 | 4 | 3 |
| Estonia | 3 | 4 | 3 |
| Slovak Republic | 4 | 3 | 3 |
| Slovenia | 3 | 4 | 3 |
| Albania | 2 | 2 | 2 |
| Armenia | 3 | 2 | 2 |



TABLE 6.1: OVERALL SCORE

| | Extensiveness | Effectiveness | Overall Score |
|-----------------------|---------------|---------------|---------------|
| Belarus | 3 | 1 | 2 |
| FYR Macedonia | 3 | 2 | 2 |
| Georgia | 3 | 1 | 2 |
| Kazakstan | 3 | 1 | 2 |
| Kyrgyzstan | 3 | 2 | 2 |
| Latvia | 3 | 2 | 2 |
| Lithuania | 3 | 2 | 2 |
| Moldova | 3 | 2 | 2 |
| Russian Federation | 4 | 1 | 2 |
| Romania | 3 | 2 | 2 |



TABLE 6.1: OVERALL SCORE

| | Extensiveness | Effectiveness | Overall Score |
|--------------|---------------|---------------|---------------|
| Ukraine | 3 | 2 | 2 |
| Uzbekistan | 3 | 1 | 2 |
| Azerbaijan | 2 | 1 | 1 |
| Tajikistan | 2 | 1 | 1 |
| Turkmenistan | 2 | 1 | 1 |



TABLE 6.1: COMPOSITE: Classification

- (1) Legal rules often unclear and impose significant constraints to creating investment vehicles, security interests or repatriation of profits; availability of legal advice is limited; judicial and administrative support of the law is substantially deficient



TABLE 6.1: COMPOSITE: Classification

- (2) Legal rules often unclear; legal advice often difficult to obtain; legal rules impose constraints to creating investment vehicles; the taking of security or repatriation of profits; judicial and administrative support of the law is rudimentary; where adequate legal rules or legal advice exist, administration of the law is deficient



TABLE 6.1: COMPOSITE: Classification

- (3) Legal rules do not impose major obstacles to the creation of investment vehicles, the taking of security or the export of profits; legal rules are reasonably clear and specialised legal advice is available; judicial and administrative support of the law is often inadequate; where such support is adequate, legal rules often impose significant constraints



TABLE 6.1: COMPOSITE: Classification

- (4) Legal rules are clear, generally do not discriminate between foreign and domestic investors and impose few constraints; specialised legal advice readily available; investment laws reasonably well administered and supported judicially, although that support is sometimes patchy



TABLE 6.1: COMPOSITE: Classification

- (4*) Legal rules closely approximate generally accepted standards internationally and are readily ascertainable through sophisticated legal advice; investment laws are well administered and supported judicially, particularly regarding functioning of courts and land and the orderly and timely registration of proprietary or security interests



CONCLUSIONS FROM SURVEY

- Few countries' normative laws approximate generally accepted standards (*Poland and Hungary v Albania, Azerbaijan, Tajikistan and Turkmenistan*)
- Even countries with relatively good legal rules can have them severely compromised through poor accessibility and enforcement (*Russia, Uzbekistan*)



CONCLUSIONS FROM SURVEY

- Most countries have made more progress in enacting good investment laws than ensuring their effectiveness
- In a few countries, while investment laws fall short of international standards, the legal environment may nonetheless be supportive of investment (*Croatia, Estonia and Slovenia*)