

## The protection of investments in the Ukraine.

The international association 'Ukraine-European Union' is located in 1050 Brussels, on the Avenue Louise 148 (tel. 02.643.33.60) and is aimed at the promotion of the bases of the relationships between the Ukraine and the European Union. Ms. Yrina Klapchuk, associate of the office, who has the Ukrainian nationality, heads the association.

One of the focus points of the association is the protection of the European investments in the Ukraine. In this regard, it is interesting to note that since 27 July 2001, the agreement on the promotion and protection of the investments between the Ukraine and the Belgium-Luxembourg Economical Union has entered into force, for a renewable period of ten years. The agreement was signed on 20 May 1996 in Kiev, at the same time than an agreement to avoid double taxation.

The Ukrainian legislation allows foreign investors to participate in the process of privatisation, on the basis of the dispositions concerning the law on property of 7 February 1991, the law on the investment activities of 18 September 1991, the law on the protection of foreign investments in the Ukraine of 10 September 1991, the law on the privatisation of public enterprise of 4 March 1992, the law on the privatisation of small enterprises of 6 March 1992, the two decisions of the Minister Cabinet, one of 17 January 1995 on the approval of the list of enterprises that will be possible to acquire by foreign investors and the other one of 14 March 1995 on the regime of foreign investments, as well as on the Ukrainian real estate code and other privatisation laws.

In general, investors have the same rights than the Ukrainian partners with regard to privatisation. Foreign investors can buy shares of a company at a monthly public auction, if they address a financial agent (investment- or trust fund). They can also acquire the share of the State through negotiated certificates. The main investment sectors in Ukraine are the food processing sector, the light industry, the manufacturing of machines, the medical industry, the steel industry, the energy sector (nuclear, waterpower, coal and non-traditional energy sources), transport infrastructure, communication (cable as well as space applications), the chemical – and oil refining and projects of social infrastructure.

The bilateral agreement between the Belgium- Luxembourg Economical Union and the Ukraine offers even more guarantees than these national investment laws, in part due to the supremacy of international law on the internal law of a State.

The agreement tends to encourage investments, to offer guarantees for a maximal protection of investors, the guarantee of a just and equitable treatment of the investment, the clause of the most favoured nation to prevent discrimination, the obligation of compensation in the currency of the investor's state in case of property depriving measures, the free transfer of revenues and the creation of a fit legal frame in which investment disputes can be settled and in which investors can turn to international arbitration.