Legal Groundwork for the Investment Activity in the Modern National Legislation of the Republic of Kazakhstan Subject to the International Legal Practice

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Abstract: The Article considers the vital role of the foreign and domestic investments in the development of the economy of the Republic of Kazakhstan. How Kazakhstan by attracting the investments to the strategic industries of the economy takes the leadership position in the Central-Asian region for creating the favorable investment climate for foreign and domestic investors.

Key words: Investment • Foreign investors • Legal support of investment activity • Investment climate • Domestic investors • The strategic industries of the economy • The international legal practice

INTRODUCTION

One of the main objectives for any state in the world is a targeted activity on improving the living standards of its population. These parameters depend on how the state is interested in it and what funds will be used for covering the costs on solving the above mentioned problems. Hence, in case of shortage of the funds the state reasonably solves the problems by attracting investments. Just hereinafter it will be concerned.

The experience in attracting foreign investments shows that in the context of the global crisis the competition for investments has been increasing every year. Therefore, realizing the importance of the investment attractiveness, the Republic of Kazakhstan has created favourable conditions for doing business. Thus, according to the World Bank ranking, in 2013 Kazakhstan took 49th place out of 185 (in 2012 the 56th place) for doing business, being far ahead of most of the CIS.

If just as a matter of interest go into the history of solving these issues in Kazakhstan and then some interesting examples could be given.

The policy which has been conducted by the head of the state since 1993, has allowed attracting more than $200 billion of the foreign direct investments to the state.

Today Kazakhstan has created the entire necessary legal framework for carrying out the investment activity.

In 1998 the Law of the Republic of Kazakhstan # 220-I «On Limited and Additional Liability Partnerships» was adopted [1].

Thus, in 2003 the Law «On Investments» (hereinafter referred to as - the Law) was adopted, which fully regulates the legal and economic framework for the investment incentive. [2]

According to the estimates of the international experts this law is one of the best laws in the field of investments among the emerging markets. The Law ensures the full protection of the investors' rights and the stability of the concluded contracts, as well as the state authorities work for the investors is strictly regulated (free floating of capital, capital repatriation, freedom to use profit, the right of private ownership to land, including those of the foreign companies).

Since 2003 the Resolution of the Government of the Kazakhstan Republic on some issues of implementing the Law of the Kazakhstan Republic «On Investments» has been valid [3].


In 2008 the Code of the Republic of Kazakhstan # 99-IV LRK dated 10th December 2008 «On Taxes and Other Obligatory Payments to the Budget» (the Tax Code) was adopted[7].
In 2010 the Resolution # 1145 of the Government of
the Kazakhstan Republic dated 30th October 2010 «On
Approval of the Program on Attracting Investments,
Developing Free Economic Zones and Export Incentive in
the Republic of Kazakhstan for the Years 2010 - 2014» was
published [8].

On 21st July 2011 the Law of the Republic of
Kazakhstan «On Free Economic Zones in the Republic of
Kazakhstan» was adopted [9], which allows:

- attracting the professional holding companies which
have international management experience;
- summarily engaging the foreign labour.
- providing the investor with services through the
"one-stop-shop" principle which ensures the
accelerated registration of the investors in the FEZ
territory and obtaining the required documents
(including the consent ones)
- along with the tax benefits in force the additional tax
benefits are provided, such as VAT, the land rent, the
social tax and the increase in the marginal
depreciation rate from 15% to 40% (the "ITP" FEZ).

Resolution # 601 of the Government of the
Kazakhstan Republic dated 10th May 2012 «On
Approval of the List of the Kazakhstan Republic
Settlements Being Less Socially and Economically
Developed» [10].

Resolution # 799 of the Government of the
Kazakhstan Republic dated 18th June 2012 «On Approval
of the List of the High-Technology Product

Law of the Republic of Kazakhstan # 534-IV dated 9th
January 2012 «On the State Support of the Industrial and
Innovation Activity» [12].

On February 20, 2013 the President of the Republic of
Kazakhstan signed the Law of the Republic of Kazakhstan
"On Introducing Amendments and Additions to the Law
of the Republic of Kazakhstan "On Investments", in
which the extension of the investment preferences
package as to the exemption from the custom duties when
importing spare parts and raw and other materials are
provided.

On January 2013 the Law of the Republic of
Kazakhstan «On the State Support of the Industrial and
Innovation Activity» was adopted [12]. This law amended
the investment legislation of the Kazakhstan Republic. In
particular, a special treatment for the strategic investment
projects was implemented by it.

In addition, the statistics shows that more than 40%
or about $90 billion have been attracted over the years of
implementing the forced industrial and innovation
development program. The last year was a record one - as
$28 billion of the foreign direct investments were attracted
to the state economy, the growth of 9% compared with
2011 ($26.5 billion) was ensured. At the same time 68%, or
$12.9 billion of all attracted gross investments which had
been steered into the manufacturing sector since 2005
($18.98 billion), fell to period of implementing the state
program [13, 14]. These data undoubtedly show an
upward trend in the structure of the attracted investments.

In terms of the foreign direct investments in 2012
Kazakhstan was ahead of such countries, as Turkey,
Ukraine, Poland, Romania, Azerbaijan and establishes
itself as a leader for the net inflow of investments and per
capita investment inflow in these countries. According to
the data, over the last years the Netherlands, the USA,
France, China and the United Kingdom have been the
leaders of the countries which invest to the economy of
the Kazakhstan Republic.

Today about 8 thousand foreign-invested companies
actively operate in the state, including the leading
companies from the Fortune 500 list. It is such large
multinational giants, as "Chevron", "Siemens",
"Microsoft", "GE", "Coca-Cola", "Danone".

In 2011 and 2012 the assistance in attracting more
than 20 foreign investors was rendered. Such large
companies as the German Knauf, the French - Aistom, the
HYUNDAI and LG Electronics South Korean firms could
be listed among them. This year the Toyota Motor
Corporation and Peugeot, which had organized the
production of assembling the popular car brands have
been added to the list.

Access of the international companies to
Kazakhstan - is the result of the policy conducted by the
the Head of the State and the confirmation of the
investors' trust in the political and economic stability of
our country. The work on improving the investment
climate is carried out thoroughly, according to the modern
requirements and the world trends in the development of
the economic relations.

All these results have been achieved through the
creation of the legal conditions and are the basic warranty
for the investors. The work on improving the investment
legislation in accordance with the best international
practices is continuously carried out [15-26]. When
reviewing the state policy in this field, the OECD experts
have presented 12 recommendations to improve the
investment climate, which are gradually being
implemented by our Government.
Today the measures of the state support for the strategic project investments have been expanded, the legislation concerning the development of free economic zones (FEZs) as to its creation on private lands has been improved.

The National Plan to attract the investments in order to improve the conditions of the foreign investors’ entry and residence in the state is implemented. As a part of this Plan the time needed for receiving the investor visas have been reduced from 5 to 3 days. The investor support centres both for the provinces and the diplomatic missions of Kazakhstan have been created in the regions, the investment targets have been determined.

The performing work on promoting the investment image intended to create the business environment and to come in the direct contact with the investor involving the national holdings, development institutions in the context of such effective measures as business forums and "road shows" plays a significant role in attracting the funds to the economy. Thus, since 2012 more than 20 investment business forums with the local and foreign business communities involved have been held, at the end of which more than 180 bilateral agreements for the amount of more than $15 billion have been signed. Over the same period 4 "road shows" have been held intended for the separate attraction of the large European companies for the joint implementation of the investment projects of the country.

The Unified Industrial and Innovation Exhibition, organized to promote the regional investment projects to the domestic and foreign markets should also be noted. There were more than 70 projects; some of them have attracted the investors during the exhibition.

Establishing a direct dialogue between the public authorities and the investor plays an important role in attracting the investments and creating the favourable conditions for the investors. For this purpose the Council of Foreign Investors chaired by the Head of the State, which deals with solving the strategic issues and the Council for Improving the Investment Climate in Kazakhstan under the chairmanship of the Prime Minister of the Republic of Kazakhstan for solving the system issues of the investors have been set up and now actively operate.

The Investment Ombudsman plays a special role in initiating a direct dialogue with the foreign partners in order to draw up the proposals for protecting the foreign investors' rights and solving their current problems.

The issues of the further improvement of the investment climate and the legislation, improving the conditions of the investors' entry and residence in the state are under the constant control. The activity of these institutions provides an effective platform for the dialogue between the state authority and the investors which work in Kazakhstan [6].

In this regard the Russian scientists Farkhutdinov I.Z. and Trapeznikov V.A. claim: whether there is any relation between the national and foreign investments. There is such relation as, at least, without the domestic investments the foreign investments are - like a straw for a drowning man. There a question arises: whether a foreign investor could trust in the preservation and building of his capital, when investing it in the Russian economy. He wishes it but he could not do it. For example, the total amount of the foreign investments attracted to Russia compared, for example, with China, is very poor. The annual investment flow to China is more than $40 billion, in Russia - it is five times less. This is probably due to the fact that foreign investors have been still expected when the citizens of Russia put their money into the national banks and the investment funds. This is the litmus test to determine the ranking of the domestic financial market and the signal for the foreign investors of the stability of the national economy.[15, C.11].

The taken measures will undoubtedly improve the investment competitiveness of our country on its way to achieve the set objectives subject to the international legal practice.

REFERENCES