

Legal Reforms and Investor Protection in Uzbekistan: Enhancing the Business Environment for Sustainable Economic Growth

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Abstract: This article discusses Uzbekistan's recent reforms aimed at enhancing its investment climate and protecting the rights of both domestic and foreign investors. The country has introduced extensive legal and institutional changes, including tax simplifications, protections for foreign investors, and a liberalized currency conversion process. These reforms have allowed Uzbekistan to attract significant foreign investments and improve its global economic rankings. The article emphasizes the importance of a legal framework that guarantees investor rights and highlights steps such as the adoption of English law principles and the potential establishment of specialized investment courts. Additionally, the piece reflects on historical attitudes toward foreign investors in the region, explores public-private partnerships (PPPs), and examines the potential benefits of adopting international human rights standards through the Council of Europe's HELP program. Through these initiatives, Uzbekistan aims to foster a secure and attractive investment environment, positioning itself as a competitive player in the global economy.

Keywords: Uzbekistan, investment climate, foreign investors, legal reforms, economic liberalization, international investment law, investor protections, public-private partnerships (PPP), English law, HELP program, economic modernization, tax reforms, judiciary independence, economic growth.

In recent years, extensive efforts have been undertaken in our country to foster entrepreneurship, attract investments, establish a conducive business environment, and safeguard the rights and legal interests of entrepreneurs. Foreign Direct Investment (FDI) has played a key role in this transformation, with more than \$70 billion in FDI injected into the economy over the past years, further boosting the country's economic growth and development¹.

Significant reforms have been implemented in the tax system, simplifying the process for obtaining permits, canceling scheduled inspections not directly related to the financial and economic activities of businesses, and allowing the free conversion of the national currency, the soum. Additionally, all restrictions on profit repatriation for foreign investors have been lifted. As a result, Uzbekistan's banks and major enterprises obtained international ratings for the first time and entered global financial markets. Notably, the issuance of international bonds in the national currency marked an important milestone in the country's economic advancement.

Uzbekistan has implemented bold reforms in recent years, liberalizing its economy and improving prospects for private sector development. Since 2017, with an average GDP growth of 6%, the country has become one of the world's top reformers, outperforming many lower-middle-income economies².

A key factor in this progress is the commitment of the nation's leader, President Shavkat Mirziyoyev, whose visionary initiatives and unwavering dedication have set clear priorities and taken on substantial responsibility for their realization, demonstrating a profound commitment to the interests and future of Uzbekistan.

¹ https://gov.uz/en/miit/activity_page/investitsiyalar

² <https://www.worldbank.org/en/country/uzbekistan/overview>

A series of regulatory legal documents aimed at enhancing the investment climate are being adopted in our country.

Notably, with the issuance of Decision on December 30, 2021, titled “On approval of the investment program of the Republic of Uzbekistan for 2022-2026 and introduction of new approaches and mechanisms for managing investment projects” the President of the Republic of Uzbekistan established a new system for investment management.

In line with the implementation of this decision, the prosecutor's office is conducting comprehensive oversight to attract foreign investments to the republic, launch regional investment projects, and protect the legal interests of project initiators.

A practice of continuous engagement with initiators has been established, ensuring regular contact from the initial stages of project development within the programs through to the production and sale of the final product.

As is well known, foreign investments play a crucial role in the economic growth of any country. Thus, nations that attract foreign investments must provide investors with guarantees to protect their rights and ensure these protections are enforced in practice.

International investment law is designed to promote and protect the activities of private foreign investors. This does not necessarily exclude the protection of government-controlled entities as long as they act in a commercial rather than in a governmental capacity. Even investors substantially owned by States will qualify. Exceptionally, investment treaties in their definitions of investors specifically exclude or include³

In our view, upholding the legal rights and interests of investors who have confidently chosen Uzbekistan and invested over the years bolsters their trust in the country.

It is well-established that guarantees for protecting the rights of foreign investors are enshrined in national legislation of host countries, international documents and agreements, civil law contracts, as well as bilateral international investment agreements.

In this regard, we support the viewpoint of A.A. Ovchinnikov, who asserts that the state has a crucial role in guiding investors to ensure that their activities contribute to the fulfillment of broader public interests within society⁴.

First and foremost, it is essential to protect the private legal rights of foreign investors. Legal guarantees of this nature should be enshrined in the national legislation of the host country, governing the conclusion of civil law agreements.

In this context, S.N. Lebedov's assertion that the protection of foreign investors' rights is a state obligation rooted in legislation or international legal norms is particularly pertinent⁵.

In the realm of international investment law, the procedures governing foreign investments are categorized into absolute and relative rules. The absolute rules are founded on principles such as full protection and security of investments, non-restriction of rights, fair and equal treatment, adherence to investment-related regulations, and treatment in accordance with international law. Conversely,

³ Oxford Public International Law (<http://opil.oup.com>). (c) Oxford University Press, 2023. All Rights Reserved. Subscriber: Lund University Libraries; date: 07 September 2023. p.59.

⁴ Investment Law: a textbook for bachelor's and master's degrees / A.A. Ovchinnikov [et al.]. - 3rd ed., - Yurait Publishing House. 2015. - 273 p. - Series: Bachelor and Master. Academic course.

⁵ International Private Law: Textbook in 2 volumes: Volume 2. Special Part / Ed. S. N. Lebedev, E. V. Kabatova. – M.: Statut. – 2015. – P. 176.

relative rules encompass the obligation to provide maximum facilitation to investors and adhere to national regulations⁶.

For instance, Article 1 of the Civil Code of the Republic of Uzbekistan outlines the fundamental principles of civil law, which affirm the equality of parties involved in regulated relations, the inviolability of property, the freedom of contract, the prohibition of arbitrary interference in private matters, and the unobstructed exercise of civil rights, emphasizing that violations necessitate the restoration and protection of rights through judicial means.

Additionally, the Civil Code regulates private legal relations and specifies that the parties possess equal rights. Furthermore, the third part of Article 2 stipulates that, unless otherwise stated by law, the rules established in civil legislation apply to relations involving foreign citizens, stateless individuals, and foreign legal entities.

Amidst the transformation of international relations, the establishment of new geo-economic structures, increasing population migration, and the accelerated movement of capital and services, the interplay between personal law (*lex personalis*) and domicile law (*lex domicilii*) raises the need to clarify the legal status of foreign citizens in Uzbekistan, as well as the legal sources defining this status, associated legal restrictions, and improvements to the national legal framework.

The terms "foreign citizens" and "foreign legal entities" as defined in the aforementioned Civil Code provision also extend to foreign investors.

Historically, attitudes towards foreign citizens and stateless individuals have evolved significantly. Over time, societies have moved away from negative perspectives, which included viewing them with animosity and regarding them as adversaries. This shift has led to the abandonment of the rightslessness and defenselessness of foreigners, ultimately resulting in the recognition of their rights and obligations, alongside the establishment of effective legal protections enshrined in legislation.

In particular, in ancient Turkestan, considerable emphasis was placed on providing assistance to foreigners and ensuring fairness in addressing grievances against them. Initially, these relations pertained to the legal status of foreign merchants.

During the VI-VII centuries AD, the ancient trade routes connecting China with Iran and India via Bukhara significantly stimulated trade development and facilitated its expansion.

The activities of the Sharq and Iskijkat bazaars, which involved foreign participants between the VII and XII centuries, the purchase of lands in Bukhara, and the Mokhrokh Eid bazaar held biannually in Bukhara, along with the conflicts between Bukhara merchants and Arab traders, provide important historical insights.

The "History of Bukhara," a thousand-year-old text that has survived as a complete work, mentions the "Bayti ut-Tiroz" textile enterprise, which operated in Bukhara during the 8th and 9th centuries. This enterprise produced a variety of goods, including dapardas, yazdi garments, pillowcases, jewelry, and outerwear for caliphs and princes, which were then transported to Damascus, Egypt, and the cities of Rum⁷.

Amir Temur recognized that fostering international relations and ensuring the safe arrival of foreigners would significantly enhance the development of handicrafts and trade. In his "Tuzuklari Temur," he instructed that "korizis should be built on ruined lands, rabots established at every settlement along the

⁶ Comparative analysis of legal procedures of investment activities of foreign countries. Scientific electronic magazine "Economy and innovative technologies". No. 4, July-August, 2014.

⁷ Narshakhi M. "The History of Bukhara". T. "Meros". Kamalak. 1991.

route, caravansaries maintained in good condition and well-lit, and roads monitored by observers and guards."⁸

It is important to note that the provisions of Chapter 22 of the Civil Code, titled "Ensuring the Fulfillment of Obligations," also apply to foreign investors who have entered into civil law agreements.

According to Article 259 of the Civil Code, obligations can be secured through various methods, including pledges, mortgages, retention of the debtor's property, guarantees, sureties, zakat, and other mechanisms stipulated by law or contract.

The Civil Code clearly outlines the methods for securing the fulfillment of obligations, which serve to protect the legal rights and interests of foreign investors who have entered into mutual agreements with the host country.

The Law of the Republic of Uzbekistan "On Investments and Investment Activities," dated December 25, 2019, defines foreign investors as foreign countries, administrative or territorial entities of foreign nations, international organizations established under treaties or agreements between countries, legal entities formed and operating under the laws of foreign states, as well as any other companies, organizations, or associations, and citizens of foreign countries and stateless individuals residing permanently outside the Republic of Uzbekistan.

In the legislation of the host country, guarantees of compensation are crucial for investors⁹.

Article 21 of the aforementioned law stipulates that the state guarantees the protection of investments in accordance with the legislation of the Republic of Uzbekistan and international agreements.

It is also noteworthy that efforts to attract foreign investors to Uzbekistan over the past five years have positively influenced the country's image.

For instance, Uzbekistan has emerged as one of six countries globally that have achieved the most stable growth in international rankings, particularly noted for its remarkable improvement in the Index of Economic Freedom, where its position for free trade surged from 163rd to 67th place. Consequently, Uzbekistan has surpassed nations such as the USA, Japan, and China in this regard¹⁰.

In a country where investors' rights and freedoms are robustly safeguarded, with their legal interests and the rule of law guaranteed by the judiciary, the economy experiences rapid growth, which, in turn, significantly enhances the influx of foreign investments into the national economy.

The Law of the Republic of Uzbekistan "On Investments and Investment Activities" represents a logical continuation of these reforms. Article 61 of this Law stipulates that decisions made by state bodies that violate or restrict the rights, freedoms, and legal interests of investment activity participants can be appealed to a higher authority or a court.

According to Article 63 of the same Law, investment disputes arising from foreign investments during the investment activities of foreign investors in Uzbekistan should first be resolved through negotiation and, if unsuccessful, through mediation. If these methods fail to yield a resolution, the dispute will be settled by the appropriate court in Uzbekistan.

However, certain factors negatively affect the ongoing improvement of the investment environment and the effective resolution of investment disputes within the country. Notably, the current legal framework governing the judicial resolution of investment disputes is underdeveloped.

⁸ Timur's Constitutions. / A. Temur. - Tashkent: Youth Publishing House, 2018. - 184 p.

⁹ World Investment and Political Risk 2009. The World Bank. 1818 H Street. NW. Washington. DC 20433. USA. - P.

¹⁰ Worldjusticeproject.org/rule-of-law-index/country/2022/Uzbekistan

Specifically, disputes arising from economic, civil, administrative, and other legal relationships related to investment activities are adjudicated by different courts. Economic courts handle disputes within the economic sphere, civil courts address matters arising from civil, labor, and other legal relations, and administrative courts deal with disputes involving public relations with state authorities.

This fragmentation can lead to divergent judicial practices in adjudicating disputes involving investors' activities.

To attract foreign investors, it is imperative to establish a conducive business environment alongside legal guarantees for the protection of rights and interests.

In this context, English law is widely adopted as a prominent legal system in numerous foreign jurisdictions. Investors from developed countries often prefer conducting business within the familiar framework of English law. This legal system, which integrates the most favorable aspects of various national legal systems, is frequently employed in forming joint ventures and facilitating investments. Its advantages include flexibility, transparency, predictability, and, most crucially, efficiency.

Countries such as China, Kazakhstan, the United Arab Emirates, Singapore, and others have widely embraced the use of English law. For instance, in Kazakhstan, the English legal system is effectively utilized within the international financial center "Astana" to enhance the country's domestic investment attractiveness.

The Economic Procedural Code of the Republic of Uzbekistan, in its fifth part of Article 13, allows courts to apply foreign legal norms in accordance with the laws of Uzbekistan or international agreements. Furthermore, Article 14, part one of the Code, mandates that when applying the legal norms of a foreign country, the court must ascertain their content based on interpretation and practical application in the relevant foreign jurisdiction.

It is evident that there exists a robust foundation within our national legislation for the application of foreign legal norms in our republic; however, further enhancements in judicial practice are necessary to effectively resolve disputes involving foreign investors and enterprises with foreign investments.

The updated Constitution of Uzbekistan, adopted on April 30, 2023, strengthens provisions aimed at creating a favorable investment and business environment. These reforms are designed to stimulate foreign direct investment, enhance investor confidence, and hold state structures accountable in facilitating investment. By providing a more secure legal framework, the Constitution encourages both domestic and foreign investments in the national economy.

Additionally, the Constitution ensures the reliable protection of entrepreneurs' rights and legal interests, particularly safeguarding private property. This strengthens market competition, promoting a more dynamic economic environment. Entrepreneurs are granted greater freedom to conduct business activities within the law and are empowered to choose their business directions independently.

The reforms also guarantee the unity of Uzbekistan's economic space, ensuring the free movement of goods, services, labor, and financial resources. These constitutional changes are crucial for fostering a competitive, stable, and attractive investment climate, essential for the country's sustainable economic growth.

Therefore, it is essential to systematically continue comprehensive reforms aimed at achieving the effective independence of the judiciary in our country, transforming the courts into institutions that reliably and robustly protect the rights and legal interests of investors, and serve as vital mechanisms for economic transformation.

Particularly, considering the advanced practices of the Council of Europe, the initiation of the HELP program in Uzbekistan will aid in enhancing mutual understanding between EU member states, the Council of Europe, and Uzbekistan.

The HELP educational program of the Council of Europe emphasizes the following principles:

- Human rights are fundamental rights and freedoms that safeguard dignity, justice, equality, and respect for all individuals.
- Businesses significantly influence our way of life and the practical application of human rights.
- To establish effective protection of human rights within companies, it is imperative to cultivate a culture that respects these rights.
- It is essential to systematically instill principles of human rights protection culture into the operations, structure, and activities of each employee within companies to align with our legal environment.

Additionally, from a legal standpoint, establishing a specialized court to address investment disputes within the regions of the international business center appears to be a suitable initiative. This court could enhance the resolution of disputes arising from any transactions conducted by participants in this region, employing English law principles as a legislative framework.

In our view, enhancing the investment appeal of public-private partnerships (PPPs) is likely to yield positive outcomes.

Given that PPP projects are primarily organized around state assets, it would be advantageous to appoint the State Assets Management Agency as the governing body responsible for the effective management and coordination of the PPP system.

For instance, enhancing the investment appeal of PPPs could involve offering tax incentives to private investors, thereby attracting more participants to critical infrastructure projects. In another example, a dedicated governing body, such as the State Assets Management Agency, could streamline project approvals and oversee resource allocation, ensuring efficient use of state assets. For example, the Agency could establish standardized procedures for project implementation, provide regular progress reports, and foster transparent communication between the public and private sectors, ultimately increasing investor confidence in the PPP framework.

As stipulated in Article 4 of the Law of the Republic of Uzbekistan "On Investments and Investment Activities," the freedom of investment activity is one of the fundamental principles of this domain.

However, the absence of a unified criterion for evaluating the assets of local investors has led to valid concerns among entrepreneurs regarding the frequent undervaluation of properties.

Consequently, it may prove beneficial to examine foreign practices and establish a standardized criterion for assessing compensated property, engaging foreign experts, investors, valuation organizations, and relevant authorities in the process.

To achieve sustainable, job-rich economic growth, Uzbekistan needs to sustain its reforms focused on reducing state dominance in the economy, liberalizing key sectors, and improving the environment for trade, business, and investment. Building the right skills for the fast-growing economy is also an essential area for public investment.

Such measures would contribute to the robust protection of investor rights and interests within our country, including those of foreign investors, thereby fostering greater confidence in the judiciary. This, in turn, will facilitate the development of a more attractive investment environment in Uzbekistan.

In conclusion, Uzbekistan's recent reforms demonstrate a substantial commitment to creating a stable, attractive, and legally secure environment for investment. The strategic adoption of international legal frameworks, coupled with the integration of foreign legal principles and investor protections, reflects the nation's forward-looking approach to economic modernization. As the nation continues to build on these foundational reforms, steps such as the establishment of specialized investment courts, the implementation of international human rights education through the HELP program, and the streamlined management of public-private partnerships underscore a commitment to strengthening investor confidence and aligning with global standards.

By continuing to enhance the legislative, regulatory, and institutional environment, Uzbekistan is poised to further advance its appeal to foreign investors, driving sustainable growth and economic diversification. The progress achieved thus far signals a clear dedication to aligning national objectives with the demands of a competitive global economy, fostering an inclusive investment climate that safeguards the rights and interests of both domestic and foreign stakeholders. Uzbekistan's legal and economic trajectory positions it as a dynamic and reliable partner in international business, laying a strong foundation for long-term development and prosperity.