

Azerbaijan

Law of the Azerbaijan Republic On Investment Activity (1995)

Unofficial translation

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Contents

Chapter I. General provisions

Chapter II. Fulfilment of investment activity

Chapter III. State regulation of investment activity

Chapter IV. Provision of rights of investment activity subjects and protection of investments

Law of the Azerbaijan Republic On Investment Activity

Law № 952

[Preamble]

The present Law establishes general social, economic and legal conditions of investment activity (capital investment) on the territory of the Azerbaijan Republic.

The Law is directed to the intensive attraction of investments into the economy of the Azerbaijan Republic, efficient use of economy for the development of country economic base, as well as international economic cooperation and integration and will ensure protection of rights of all investors, independent of their property form.

Chapter I. General provisions

Article 1. Definition of investment

Investment is comprised of financial means, as well as material (actual) and intellectual values, used in all kinds of business activity with the aim of income (profit) extraction or for the social benefit.

These means and values include the following:

- pecuniary means, purpose bank assignments, credits, stakes, shares and other securities; movables and immovables (buildings, constructions, equipment and other valuables);
- scientific-experimental and other intellectual valuables, officially drawn up in the appropriate order;
- complete set of technical, technological, commercial and other knowledge («know-how»), drawn up in the form technical documentation, skills and production experience, necessary for the organisation of the given and other kinds of production;
- rights to use soils, waters and other resources;
- buildings, constructions, equipment, also connected with copyright or other property;
- other valuables.

Allotment of investments for the acquire and replenishment of basic funds and development of material production is carried out in the form of capital investments.

Article 2. Investment activity

1) Investment activity represents the combination of investment contribution and all actions of investors, connected with the execution of the given intention.

2) There are following kinds of investment activity:

- privatised investment activity, carried out by citizens, all juridical entities, public, religious communities and other communities of the Azerbaijan Republic;
- state investment activity, carried out by supreme and local power authorities of the Azerbaijan Republic and Nakhchivan Autonomous Republic at the expense of budget, extra-budget funds and means of debts;
- external investment activity, carried out by foreign citizens, juridical entities, state, international finance organisations, as well as persons without citizenship;
- joint investment activity, carried out by citizens, juridical entities of the Azerbaijan Republic, foreign states and both states.

3) To apply the achievements of the research-technical programmes in the production and social sphere the innovation activity as a part of investment activity is carried out. The innovation activity includes:

- implementation of long-term research-technical programmes; financing of fundamental

investigations for the introduction of qualitative changes into the state of production powers aiming at the improvement of economic structure;

- working out of new economic types of technique and technology, their output, distribution, application and etc.

Article 3. Facilities for investment activity

Either property in all spheres of economy, including general funds and circulating assets, securities, purpose cash deposit, scientific-technical products, intellectual valuables, other property facilities, as well as property rights may become the facilities for investment activity.

It is prohibited to invest into facilities, the creation and use of which does not meet the sanitary-hygiene, radiation, ecological, architectural and other norms, established by the legislative acts of the Azerbaijan Republic, as well as contradicts the rights and interests of juridical entities and state.

Article 4. Subjects of investment activity

1) Persons, that have intended to invest borrowed or attracted finance means, material (actual) or intellectual valuables into the facilities they possess and provided the use of these means by the said facilities, are considered the subjects of investments activity and called investors (capital investors).

Investors may act as depositors, creditors and buyers in the investments activity, as well as fulfil other functions, connected to the investment activity.

2) Citizens and juridical entities of the Azerbaijan Republic, persons without citizenship, foreign states may become the subjects (investors and participants) of investment activity.

3) Citizens and juridical entities of the Azerbaijan Republic and foreign states, as well as persons without citizenship may participate in the fulfilment of investment intentions as executors of orders or be the members of investment activity.

Article 5. Investments legislation

Relations, occurring at the execution of investment activity on the territory of the Azerbaijan Republic are regulated by the present Law, other legislative acts and international treaties of the Azerbaijan Republic.

Investment activity of investors of the Azerbaijan Republic on the territory of the Azerbaijan Republic is regulated by the legislation of the given state.

Chapter II. Fulfilment of investment activity

Article 6. Rights of subjects of investment activity

1) All subjects of investment activity enjoy equal rights in the fulfilment of investment activity independent of the form of property or kind of economic activity on the territory of the Azerbaijan Republic.

Investments in any project, except for those, prohibited for investment by the present Law and other legislative acts of the Azerbaijan Republic represent the absolute right of investor and are protected by law.

2) Investor independently establishes aim, direction, kind and volume of investment, attracts natural and juridical entities by means of tender or auction, as any member of investment activity.

3) In virtue of legislative acts of the Azerbaijan Republic investor has all rights of ownership, use and disposal of investment projects and results, including re-investment and trade operations.

Investment into projects without property rights does not exclude further rights of investor in the ownership, effective control and participation in incomes from the utilisation of given projects.

4) The right of ownership, use and control of investments and their results may be ceded in the legally established order to other civic and juridical entities with investor's consent. Mutual relations, appearing during the said cede of rights are regulated independently on contractual terms.

5) Investor may attract credits, securities and debts as funds for investment contribution.

With the aim of real security of his obligations investor can use his own property available under his economic use for pledge.

The guarantee is granted for the investments of state enterprises acting as investors at the expense of credit under mortgage outside the territory of the Azerbaijan Republic.

6) Investor is entitled to buy directly or indirectly property of any kind in any amount at prices and conditions, established by the parties, unless it contradicts the legislation of the Azerbaijan Republic.

7) Investors may participate in the privatisation of state and municipal property, as well as uncompleted construction projects at conditions and in the order, specified by the legislation of the Azerbaijan Republic.

Article 7. Obligations of subjects of investment activity

1) Subjects of investment activity are to provide the following in circumstances and in the order established by the legislation of the Azerbaijan Republic:

- granting of appropriate bank license for the amount and source of investments, carried out on the basis of financial resources and material values;
- obtaining of necessary permit and approval from corresponding state bodies and secret services for capital construction and other works, requiring permit;
- obtaining of expertise recall for investment projects from the viewpoint of observation of ecological, sanitary-hygiene, radiation, ecological and architectural requirements;
- observation of norms and standards, established in the order specified by the legislation of the Azerbaijan Republic; execution of requirements, fixed by state bodies and executive officers within the limits of their competence, in the order specified by the legislative acts of Azerbaijan Republic; submitting of accounting and statistical acts in the established order;
- not to permit the unfair competition and observe the requirements of anti-monopoly regulation;
- payment of fines in cases, specified by the legislation or contract.

2) Members of investment activity are to get the license for the fulfilment of special character works, requiring appropriate certification. The list of such works is to be determined by the Supreme Council of the Azerbaijan Republic, whereas the order of license granting is established by the Cabinet of Ministers of the Azerbaijan Republic.

Article 8. Relations between the subjects of investment activity

Contract represents the general document, regulating relations between the subjects of investment activity.

Conclusion of contract, choice of supporters, determination of duties, adoption of any conditions of economic relations not contradicting the legislation of the Azerbaijan Republic do not represent absolute competence of subjects of investment activity. The over-interference of state bodies and executive officers into contractual relations of subjects of investment activity, specified by the acts of legislation in force.

Subjects of investment activity are entitled to organise competitions and auctions in accordance with legislation in force aiming at the fulfilment of investment intentions and measures.

Article 9. Sources of investment activity financing

Investment activity may be financed from the following sources:

- cash, real financial and internal economic resources of the investor himself (profit, depreciation deductions, pecuniary charges, deposits of citizens and juridical entities, appropriate payments of insurance bodies for the coverage of damage incurred);
- debt financial means of investor (bank and budget credits, bonds and other means);
- attracted financial means of investor (stakes of working collectives, citizens and other contributions, means resulted from the sale of shares);
- budget assignment with the aim of -investment foreign investment;
- gratuitous and charity contributions of enterprises, organisations and citizens, benefits and etc.

Chapter III. State regulation of investment activity

Article 10. Aim of state regulation of investment activity

State regulation of investment activity is carried out with the aim of pursuing common economic, scientific- technical and social policy and is financed at the expense of Republic and local budgets in the amount, specified by the program of social-economic development of the Azerbaijan Republic.

Investors, fulfilling investment activity in the most important directions to meet the public demand, are granted privileges, specified by legislative acts of the Azerbaijan Republic.

In case of necessity appropriate investment funds and other establishments may be created or organised with the aim of fulfilment and regulation of investment activity.

Article 11. Forms of state regulation of investment activity

1) State regulation of investment activity includes control of state investment, as well as regulation of conditions for investment activity and control over the observance of conditions by all subjects of investment activity.

2) Regulation of state investment is carried out by Republic and local power authorities and is comprised of the planning of budget, extra-budget means, other means, attracted by the given bodies, determination of investments and solving of other problems, connected to them.

3) State regulation of investment activity is carried out by the following means:

- tax systems, subjects and objects of taxation are divided at, tax degrees and privileges;
- fulfilment of credit and depreciation policy, including accelerated depreciation of capital assets. Changeable and various depreciation exemptions may be determined for different economic spheres, kinds and elements of capital assets and equipment;
- rendering of finance assistance in the form of grant, subsidy and budget loans;
- determination of state norms and standards;
- adoption of anti-monopoly measures;
- separation of property from state and its privatisation;
- establishing of conditions for soil, water and other natural resources utilisation;
- fulfilment of pricing policy;
- conducting of expertise of investment projects;
- other measures.

Article 12. Order of adoption of resolutions about state investments on the territory of the Republic

1) Resolutions about state investments on the territory of the Republic based on forecasts of economic and social development, scheme of development and placement of production forces, on purpose scientific-technical and complex programs, determining the expediency of given investments.

2) Projects of purpose and scientific-technical programs around the Republic are to be worked out by appropriate state authorities and public organisation in the order, established by the Cabinet of Ministers of the Azerbaijan Republic and adopted by the Supreme Council of the Azerbaijan Republic within the structure of general directions for social-economic development of the Republic with the representation of Republic government.

3) Resolutions, the execution period of which makes up to two years, covering state investment intentions, connected to extraordinary situations, emergencies and natural disasters, are to be adopted by the Cabinet of Ministers of the Azerbaijan Republic on the basis of proposals of appropriate central and local state regulation authorities.

Article 13. Procedure of state order placement for the execution of works in fundamental construction

1) State order for the execution of works in fundamental construction represents one of the forms of state investment implementation on the territory of the Republic.

2) As a rule, the state order is placed on the basis of competition (tender) with consideration of economic profitability of the given order for enterprises and organisations.

3) Projects of Republic state order are accepted for operation in the order, specified by the Cabinet of Ministers of the Azerbaijan Republic.

Article 14. State expertise of investments

1) Republic, interstate and regional investment projects and programs, financed at the expense of budget, extrabudget means, as well as at the expense of foreign investments are to come through state expertise in the order, established by the Cabinet of Ministers of the Azerbaijan Republic.

Investments, financed at the expense of other sources are to come through the state expertise in the order, specified by the Cabinet of Ministers of the Azerbaijan Republic from the viewpoint of ecological, seismic and sanitary-hygiene norms observance.

In case of necessity the expert committee, created by the Cabinet of Minister of the Azerbaijan Republic may conduct expertise of separate investment projects and programs.

Article 15. Regulation of investment activity by the Supreme Mejlis of the Nakhchivan Autonomous Republic, local power and regulation authorities

Supreme Mejlis of Nakhchivan Autonomous Republic and local power and regulation authorities, under the supervision of the Republic regulate investment activity on their territories by means of creation of production and social projects by subjects of investment activity, coordination of problems of natural resources utilisation.

The use of local budget for investment activities, construction of social infrastructure facilities, allotment of land under construction, raising of questions before appropriate bodies in cases of infringement of conditions for soil use, volume and period of projects construction with the assignment of social and nature-protection branches, represent the absolute competence of local power and regulation authorities.

Supreme Mejlis of Nakhchivan Autonomous Republic may establish new conditions, not contradicting the present Law with the aim of state regulation of investments.

Article 16 Pricing in investment activity

During the process of investment activity the cost of production, work and services is established by free prices and tariffs, as well as results of competitions (tender), and in cases specified by legislative acts - by prices and tariffs, regulated by the state.

Contract prices may be established during construction, using recommended state norms of estimates and prices.

Chapter IV. Provision of rights of investment activity subjects and protection of investments

Article 17. Provision of rights of investment activity subjects

State ensures stability of conditions for implementation of investment activity, protection of rights and legal interests of its subjects.

Terms of the contract, concluded between the subjects of investment activity remain valid during the whole period of the given contract even at the establishment by the legislation conditions, complicating or contradicting the state of subjects, if they have not agreed about their amendments.

State bodies and their executive officers cannot interfere with the affairs of subjects of investment activity except for those circumstances, permitted by the legislation and being within their competence.

Apart from circumstances, specified by the present Law, investors rights in the choice of projects cannot be restricted.

At the adoption of acts, infringing subjects rights by state bodies and other authorities, the said bodies are to fully pay the damage, incurred to the subjects of investment activity. Disputes about damage compensation are to be considered in court or arbitration.

Article 18. Protection of investments

1) The state ensures guarantee for the provision of all investments, including foreign investments, independently of the form of property.

Protection of investments is provided by the corresponding legislation of the Azerbaijan Republic, as well as contracts, concluded by other states. Investors, including foreign ones, are granted equal legal regime, excluding measures, preventing from control, use, liquidation of investments, also determining conditions and the order of keeping the results of values and investments.

2) Provided further legislation of the Azerbaijan Republic deteriorates conditions of investment depositing, the legislation in force at the moment of investment is applied for the period, specified in the contract about investment activity.

3) Investments are not to be nationalised without compensation, confiscated and no other similar measures are to be applied on the territory of the Azerbaijan Republic. Such measures are possible on the basis of acting legislation of the Azerbaijan Republic and with condition of full payment of damage, incurred in connection with the termination of investment activity, including lost profits. The order of payment of damage, incurred to investor is determined by the given legislation.

At the purchase of bank deposits, the contribution of shares and other securities deposited or acquired by investors, compensation of payments for property purchased or right for lease, excluding amounts used or lost as a result of their own actions or actions conducted with their participation, are to be returned to investors.⁴ Disputes, occurred during the fulfilment of investment activity are considered by court, or arbitration correspondingly.

5) Investments may be insured, and in cases specified by the legislation should be insured.

Article 19. Responsibility of subjects of investment activity

In case of non-execution of requirements, specified by the legislation or obligations, agreed upon between the subjects of investment investors bear responsibility in the order, specified by the given acts.

Similar responsibility is also foreseen for state bodies at the failure to execute corresponding obligations under the contract, concluded between the subjects of investment. In this case at the lack of state authorities means for the compensation of damage incurred, including lost damage or fine, the amount mentioned is to be paid by the Republic government or local executive powers and executive officers, guilty in the infringement of obligations are to bear personal responsibility in the legally established order.

Payment of fines or amounts for the infringement of legislation and contractual obligations, as well as the payment of incurred damage, does not release the guilty party from the execution of requirements and duties, unless otherwise specified by the legislation and contract.

Article 20. Conditions for termination of investment activity

Suspension or termination of investment activity is permitted only with the resolution of the following authorities:

- investors themselves (in this case investors pay the damage, incurred to other members of investment activity);
- competent state body.

The resolution of the state body about suspension or liquidation of investment activity may be made only for the above reasons, stated below:

- if it infringes ecological, seismic, sanitary-hygiene , architectural and other norms, rights and interests of citizens and juridical entities, states, protected by law;
- in case of investor being declared bankrupt in the legally established order;
- in case of emergencies and natural disasters.

Article 21. Security at the termination of investment activity

Investors are entitled to accept investment or incomes connected to the investment, subject to them at the termination of investment activity, in peculiar form at the real cost or in kind.

Article 22. International agreements

If international agreements of the Azerbaijan Republic establish rules other than, those specified by the legislation of the Azerbaijan Republic, the international agreements are applied.

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