

Uzbekistan

Law of The Republic of Uzbekistan on Guarantees and Measures of Protection of Foreign Investors' Rights (1998)

Unofficial translation

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

Contents

Law of The Republic of Uzbekistan on Guarantees and Measures of Protection of Foreign Investors' Rights

Law No. N 611-I

The present document was amended in accordance with:

the Law RUz dtd 12.12.2003, N 568-II,

the Law RUz dtd 16.09.2005, N ZRU-6,

the Law RUz dtd 31.12.2008, N ZRU-197.

Article 1. Purpose and tasks of the Law

The present law determines guarantees and measures of protection of rights of foreign investors executed investment activity on the territory of the Republic of Uzbekistan.

The basic tasks of the present law are the following:

- formation of a complex of measures on guarantees and protection of foreign investors' rights;
- determination of conditions of granting of additional guarantees and measures of protection for particular categories of foreign investors and foreign investments.

Article 2. Legislation on guarantees and measures of protection of foreign investors' rights

Relations associated with granting and implementation of guarantees and measures of protection of foreign investors' rights are regulated by the present Law, the law of the Republic of Uzbekistan "On foreign investments" and other legislative acts.

If an international agreement concluded by the Republic of Uzbekistan established other rules than those provided by the legislation on guarantees and measures of protection of foreign investors' rights than rules of international agreement are applied.

Article 3. Guarantees of foreign investors' rights

The state guarantees and protects the rights of foreign investors who execute investment activity on the territory of the Republic of Uzbekistan.

Discrimination is not admitted to foreign investors in connection with their nationality, place of residence, denomination, a place of execution of economic activity, as well as depending on the country of origin of investors or investments with taking into account guarantee of realization of international agreements of the Republic of Uzbekistan.

Legislative acts including departmental normative ones have not retroactive effect if their execution causes damage to foreign investor or foreign investments.

If the subsequent legislation of the Republic of Uzbekistan makes worse investment conditions, than legislation current on the date of investment is applied to foreign investments within ten years of the date of investment. The foreign investor has the right at his own discretion to apply those provisions of a new legislation which make better conditions of his investment. (Part in edition of the Law of RUz dtd 16.09. 2005 No. N ZRU-6)

Worsening conditions of investments refer to changes and amendments to the legislation as well as adoption of the new legal acts, providing:

- increase of profits tax amount (rate) on incomes received as dividends paid to the foreign investor; (Paragraph in edition of the Law of RUz dtd December 31.12. 2008 No. ZRU-197)
- introduction of additional requirements that complicate procedure of repatriation or reduce the size of foreign investor's income (profit), being transferred outside the Republic of Uzbekistan, except for the cases, when the authorized state body stops repatriation of cash of foreign investor on conditions of non-discriminative implementation of legislation acts in case of insolvency and bankruptcy of the enterprise with foreign investments or protection of the rights of creditors, criminal acts or the administrative offences accomplished by the foreign investor - the physical person, or other cases demanding necessity of stoppage of such repatriation according to judicial or the arbitral decision;
- introduction of quantitative restrictions to volumes of investments and other additional requirements to the size of investments, including in form of increase in the minimal volume of foreign investments in the enterprises with foreign investments;
- introduction of restrictions on share of the foreign investor in authorized capitals of the enterprises;
- introduction of additional procedures of registration and prolongation of visas of foreign investors - the physical persons, as well as other additional requirements on making foreign investments. (Part is introduced according to Law of RUz dtd 16.09. 2005 N ZRU-6)

Order of implementation of the parts four and five of the present article is determined by the Cabinet of Ministers of the Republic of Uzbekistan. (Part is introduced according to Law of RUz dtd 16.09. 2005 N ZRU-6)

Parts five-eight should be regarded seven-ten according to the Law of RUz 16.09. 2005 N ZRU-6

All agreements on foreign investments, first of all private ones, in the part of security of unconditional guarantees of their fulfillment, are under control of relevant bodies authorized by the government of the Republic of Uzbekistan.

State administration bodies and local authorities has no right to interfere in economic activity of foreign investors executed in accordance with the legislation of the Republic of Uzbekistan.

If, the state administration bodies and local authorities under their own legal power, reveal violation of the law by the foreign investor, they can assume only those measures which they are authorized for and which are associated directly with elimination of relevant violation. The state administration bodies and local authorities can not use the fact of violation as a ground for interference or limitation of other legal activity of the foreign investor.

The given article is not applied to approval, amendment or abrogation of legislative acts which are connected directly with assurance of protection of interests of national security of the Republic of Uzbekistan, specified under common principles of an international law.

Article 4. Additional guarantees and measures of protection granted to foreign investors

Together with common guarantees and measures of protection of foreign investors, additional guarantees and measures of protection including ones providing absolute fulfillment by the partners of their obligations to foreign investors, can be granted by the legislation.

Additional guarantees and measures of protection can be granted to foreign investors in every particular case under investment to the following:

- to priority branches providing stable economic growth and progressive structural changes of country's economy;
- to priority projects providing consolidation and expansion of export potential of the republic, its integration into global economic cooperation;
- to the projects of small business which realization is directed to processing of raw materials, primary goods, production of consumer goods and services, assurance of employment of population. (Paragraph in edition of the Law of RUz dtd 12.12. 2003 N 568-II)

Additional guarantees and measures of protection to foreign investors can include granting of the government's guarantee of the Republic of Uzbekistan, rendering of assistance in financing of investment projects, establishment of a special tax and payment regime, the state monitoring of realization of projects and other measures in accordance with the legislation.

Additional guarantees and measures of protection are granted to foreign investors by the special Government's decisions in which in particular, conditions and order of investment, use and security of recouplement of foreign investments are provided.

Article 5. Guarantees against nationalization. Conditions of execution of requisition

Foreign investments and other assets of foreign investors of the Republic of Uzbekistan are not subject to nationalization.

Foreign investments and other assets of foreign investors are not subject to requisition except for cases of natural calamities, accidents, epidemics, epizootics.

The decision on requisition is taken by the Cabinet of Ministers of the Republic of Uzbekistan under observation of requirements on which requisition:

- is limited by minimal amount of investments or other assets required to solve tasks following from indicated cases;
- is executed on non discriminatory basis and in accordance with the order established by the legislation;
- is accompanied by payment of compensation adequate to inflicted loss. A state is a guarantor of timely fulfillment of indicated compensation payments.

A foreign investor has the right to contend in legal form and by arbitration the following:

- legality of the purpose used for execution of requisition;
- an amount of requisitions;
- valuation of requisited investments and other assets;
- correspondence of payment of compensation subject to payment;
- procedure which was observed by state administration bodies and local authorities under execution of requisition.

Article 6. Guarantees of funds use

Foreign investor's profits received in the Republic of Uzbekistan can be re-invested on the territory of the Republic of Uzbekistan or used by all means at the foreign investor's discretion.

According to the legislation, the enterprises with foreign investments have the right for the following:

- to open, use and dispose accounts in any currency and any bank on the territory of the Republic of Uzbekistan as well as outside it;
- to receive and return loans in foreign currency.
- Limitation of use or compulsory withdrawal of resources from the accounts of an enterprise with foreign investments can be effected by the state administration bodies and local authorities exclusively in accordance with the procedure established by the legislation.

Article 7. Guarantees of funds transfer

Foreign investors are guaranteed a free transfer of funds in foreign currency to and from the Republic of Uzbekistan without any limitations provided payment of taxes and other obligatory payments by them in accordance with the procedure established by the legislation of the Republic of Uzbekistan. Such transfers include the following:

- initial and additional sums designed either to support or to increase foreign investments;
- income received from investment execution;

- funds received as compensation for inflicted losses in accordance with the present Law;
- payments executed in order of agreements execution;
- proceeds of sales of all or part of foreign investments;
- payments arised on account of dispute settlement including any judicial or arbitral decision;
- salary and other payments to workers;
- funds from other sources received in accordance with the legislation.

In accordance with the rules of international law, the state can stop repatriation of foreign investor's funds on terms of non discriminatory application of legislative acts in cases of insolvency and bankruptcy of an enterprise with foreign investments or protection of creditors' rights, criminal acts or administrative infringement of a law effected by a foreign investor - natural entity, or other necessity to stop such repatriation according to arbitration or court decision.

Article 8. Guarantees of refund of foreign investments in connection with cessation of investment activity

The foreign investor has the right to stop investment activity in the Republic of Uzbekistan in accordance with the order established by the legislation.

After cessation of investment activity, the foreign investor has the right for free repatriation expressed either in money or natural form of his assets got as a result of cessation of investment activity without loss for fulfillment of foreign partner's obligations with regard to the Republic of Uzbekistan or other creditors.

Article 9. Free access to open information

Legislative acts including departmental normative ones as well as judicial decisions effecting the foreign investors' interest anyway, should be available to them; and in cases directly provided by the legislation - they should be published.

State administration bodies and local authorities are to provide information interested for foreign investor, at their request in accordance with the procedure stipulated by the legislation.

Article 10. Settlement of disputes

Dispute associated with foreign investments (investment dispute) directly or indirectly, can be settled on agreement of the parties by consultation between them. If the parties will not be able to achieve agreed settlement, than such dispute should be settled either by an economic court of the Republic of Uzbekistan or by arbitration in accordance with the rules and procedures of international agreements (conventions) on settlement of investment disputes, to which the Republic of Uzbekistan has been joined.

The parties involved in investment dispute can, on mutual agreement, determine the authority settling such dispute, as well as a county which can execute arbitration legal procedure of investment dispute.

Foreign investors' disputes, not associated with their investment activity on the territory of the Republic of Uzbekistan, shall be settled in accordance with the legislation of the Republic of Uzbekistan except for cases when other procedure for dispute settlement is provided by an agreement in keeping with the rules of international law.

Article 11. Amenability for violation of the legislation on guarantees and measures of protection of foreign investors' rights

If violation of legislation on guarantees and measures of protection of foreign investments' rights takes place, an investor has the right to get adequate compensation for inflicted losses in due course of law.

In case of adoption by the state administration bodies or local authorities of normative acts limiting foreign investors' rights as well as in cases of their unlawful interference into economic activity of foreign investors, than inflicted losses shall be compensated by such authorities in due course of law.

Officials of the state administration bodies or local authorities who violated a law on guarantees and protection of foreign investors' rights, are responsible according to the established order.

Article 12. Conflict provisions

In case of some non-conformity between provisions of the present law and other legislative acts or international agreements of the Republic of Uzbekistan, the provisions, more favorable for foreign investments have an advantage.

Article 13. Application of law to investments executed earlier

The present law is applied to foreign investments executed in the Republic of Uzbekistan prior to coming of the present law into force, only in part of its more preference to foreign investor.

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