



## **IMPROVING CIVIL LAW IN INVESTMENT ACTIVITY INSURANCE IN THE REPUBLIC OF UZBEKISTAN**

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<b>Received:</b> 6 <sup>th</sup> June 2022 <b>Accepted:</b> 6 <sup>th</sup> July 2022 <b>Published:</b> 20 <sup>th</sup> August 2022	This article substantiates the need for further improvement of the civil legislation of the Republic of Uzbekistan in force in the field of investment insurance. On the basis of a comprehensive analysis of civil legislation, it is proposed to make additions and changes aimed at strengthening the protection of the rights of investors in the existing legislative acts. This article is devoted to the introduction of new forms of investment insurance. This topic is chosen due to the lack of special research in the Republic of Uzbekistan on the legal regulation of investment insurance. The methodological basis of the article includes the empirical, historical, and comparative legal methods of scientific analysis. The determination of the main directions for improving the investment legislation of the Republic of Uzbekistan and the preparation of practical proposals and recommendations for improving this segment of national legislation based on international legal standards are the main results obtained by the author of the article in the process of research work. The main conclusions made by the author in the process of scientific work encompass the following: the issues of legal regulation of insurance of investment activities have not yet been sufficiently researched in Uzbekistan; currently there is no single international legal act regulating the process of insurance of investment activities; investment and insurance legislation of Uzbekistan needs further improvement.

**Keywords:** Investment activity, investments, investors, insurance, civil legislation, insurance legislation, Republic of Uzbekistan, economy, reforms, market economy, investment legislation.

### **I. INTRODUCTION**

Currently, the economy of Uzbekistan is on the way out of the systemic crisis. It is an indisputable fact that the most important aspect of the effective development of the economy of Uzbekistan is the new growth factors characteristic of the post-industrial information age. In the process of market transformation of the economy of Uzbekistan, the mechanism of macroeconomic reproduction has radically changed, which requires more and more active attraction of additional capital. The transition of the economy to a new innovative way of development in recent years leads to the activation of investment activities at the level of economic entities. From the point of view of legal scholars, the role of investments in the country's economy is that it creates conditions for further expansion of production. Part of the investment is directed to the growth of non-productive fixed assets in education, healthcare and so forth. Investments in the form of reserves of the country for contingencies are of considerable importance for society [1].

Therefore, the modernization of the economy is impossible without a properly organized investment process. One of the most important aspects of effective

organization of investment activity is an adequate mechanism for protecting the rights of investors. One of the most important problems in this area is to minimize investment risks through the use of various insurance methods. Insurance-transferring certain risks to an insurance company are one of the main measures to reduce investment risks [2]. It follows that the formation of a mechanism for the legal regulation of investment insurance in Uzbekistan that is adequate to modern requirements and meets generally recognized international legal standards is one of the most pressing problems in the field of improving civil legislation.

The relevance of the chosen research topic is also due to the need to create favorable conditions for the implementation of investment projects, and to ensure, through their implementation, specific economic results in the field of production. Experts in the field of investment law emphasize that in modern conditions, given the rapid growth and active development of the entrepreneurial activity, it is of great importance to attract additional funds in the form of investments, including from foreign partners. Thus, the development of investment activities occurs both within the framework of the state and beyond, therefore, it is



necessary to study both domestic and foreign legislation, as well as international legal acts and the conditions for their application [3].

Various aspects in the field of legal regulation of investment activity are reflected in the works of foreign and domestic legal scientists. A sufficient number of scientific papers on such issues have been published. Among them are the following studies: I. Brownlee, D. Blumenthal, S. Williams, K. Vanderveld, E. Graham, N. Kinsella, P. Como, D. Crawford, T. Moran, V. Reisman, M. Sornaraja, S. Subedi, D. White, A. Ferdross, I. Shihata, N. Shriver, K. Schroer, and others.

A number of scientific works of scientists from the CIS countries are also devoted to various aspects of legal regulation of relations in the field of investment insurance. In this regard, the scientific works of Astapovich V. A. Bogatyrev A.D., Boguslavsky M. M., Fakhrutdinov I. Z., A. S., Rubanov A. A., Kolesnikova O. V., and others are of interest.

Interesting thoughts, theories, and conclusions concerning legal regulation in the field of insurance of investment activity are expressed in the works of these authors. However, a detailed analysis of this literature leads to the conclusion that there are still a significant number of unresolved issues.

Particularly, the problems and discussion issues in the theory and practice of legal regulation of insurance of investment activity by domestic legal scholars are insufficiently developed, which significantly slows down the pace of its implementation in the economy of our country. Therefore, you can only find a legal analysis of certain aspects of investment activity in the works of Rakhmankulov Kh. R., and Okulov O., Gulyamov S. S.

Currently, there are no special studies in Uzbekistan devoted specifically to the legal regulation of relations in the field of investment insurance.

This article is the first attempt at a comprehensive analysis of the investment insurance system in Uzbekistan from the standpoint of civil law. This paper analyzes not only the national investment insurance system but also foreign experience in this area of legal regulation. In addition, this problem has not yet been sufficiently disclosed in the works of domestic legal scientists.

The purpose of the research is to conduct a comprehensive analysis of the legal problems of forming the institutional framework for investment insurance in the Republic of Uzbekistan, as well as the state system for protecting the rights of investors. Development of practical recommendations aimed at improving domestic legislation and law enforcement practice in

this area, to increase the effectiveness of the investment insurance mechanism in Uzbekistan.

The main objectives of the study:

- to define the concept of insurance of investment activity as a subject of civil law regulation;
- to conduct a comprehensive analysis of national legislation for its adequacy to modern social relations, as well as the ability to ensure the protection of the rights of participants in insurance of investment activities;
- to study the foreign experience of legal regulation in the investigated sphere of public relations for its subsequent use when developing recommendations for improving domestic legislation;
- to develop practical recommendations for improving the investment and insurance legislation of Uzbekistan.

## **2. THE SYSTEM OF CIVIL LAW REGULATION OF INVESTMENT INSURANCE IN THE REPUBLIC OF UZBEKISTAN.**

After gaining state independence, the Republic of Uzbekistan actively carried out legislative activities aimed at forming the foundations of civil legislation. One of the directions of this work was the creation of new investment legislation.

At the first stage of formation of legal base of investment activity was adopted such legislative acts as the Constitution of the Republic of Uzbekistan, Civil Code of the Republic of Uzbekistan, Laws of the Republic of Uzbekistan On foreign economic activity, On foreign investments, On guarantees and measures of protection of rights of foreign investors, On investment activity, On insurance activity and so forth. Thus, the country has done significant work to create a legal framework for regulating investment activities.

However, when assessing the legislative activity in this area, domestic legal scholars rightly emphasized the fact that, despite the existence of these legislative documents regulating investment activities in the Republic of Uzbekistan, these documents have not yet fully contributed to the broad attraction of foreign investment. According to their opinion, the investment inflow was negatively affected by the delay in economic modernization, unstable tax policy, and imperfection of existing legislation [4].

Uzbekistan is actively working to modernize the economy and create competitive industries, which are attracting additional investments and ensuring guarantees of investors' rights. This is the reason for the need to form a new generation of investment and insurance legislation



Examples of the formation of a new generation of legislation in this area are the following:

- Law of the Republic of Uzbekistan On investments and investment activities adopted on 14<sup>th</sup> December, 2019;

- Decree of the President of the Republic of Uzbekistan On measures to reform and ensure the accelerated development of the insurance market of Uzbekistan, which approved the roadmap for development spheres for 2019-2020.

Currently, the civil regulation of relations in the field of insurance of investment activities is carried out through legislative acts such as Constitution of the Republic of Uzbekistan, Civil Code of the Republic of Uzbekistan, Tax Code of the Republic of Uzbekistan, Law On insurance activity, Law On investment activities and so forth.

Moreover, despite the work carried out in this area, the author's comprehensive analysis of the investment and insurance legislation of Uzbekistan revealed some shortcomings in the field of legal regulation of investment insurance. In particular, the Law On insurance activity does not provide for insurance of investment activities as a separate sphere of insurance. The Law On investments and investment activities also does not include rules governing investment insurance. In this aspect, the experience of foreign lawmaking shows that the investment legislation of some countries has legal norms regulating investment insurance matters. For instance, the Law of the Russian Federation On foreign investments in the Russian Federation contains a separate Article 18 regulating property insurance carried out by a commercial organization with foreign investments and a branch or representative office of a foreign legal entity. Therefore, we consider it expedient to supplement the Law of the Republic of Uzbekistan on investments and investment activities with a separate Chapter regulating insurance of investment activities. Taking into account the foreign experience of legal regulation in this aspect of civil legislation and the importance of ensuring guarantees of investors' rights, we propose to include insurance of investment activity as a separate insurance sphere in Article 4 of the Law On insurance activity.

Special attention in the scientific works of legal scholars is paid to the analysis of insurance risks and their practical manifestation, namely insurance risks, in the event of which specialized institutions provide guarantees of compensation for damage to the investor. Experts in the field of Private International Law believe that the list of insurance risks is one of the central issues in the study of foreign investment insurance [5]. Therefore, we propose to supplement Chapter 3 of the

Law On investments and investment activities with a separate Article containing a list of types of investment insurance risks. These risks include political crises in the host country, nationalization of enterprises, increased inflation or falling GDP and non-compliance with the terms of the agreement by the host country.

It is also of great importance to consolidate the possibilities of providing new insurance products in the current legislation in the process of improving the legal framework for investment insurance. It seems interesting to use the achievements of information and computer technologies and information networks existing on their basis in the process of insurance of investment activities. Perhaps you should use the experience of online insurance more actively. Therefore, we consider it expedient to supplement the Civil legislation of the Republic of Uzbekistan with the norms regulating Internet insurance to apply advanced information technologies in the process of investment insurance [6].

### **3. MAIN METHODS OF IMPROVING THE INVESTMENT LEGISLATION OF THE REPUBLIC OF UZBEKISTAN.**

Currently, from a methodological point of view, there are many ways to strengthen the connection between investment and economic development in the process of protecting the rights of investors and, thereby, overcome the existing isolation and polarization [7]. From the point of view of specialists, the prerequisite for this is, first of all, the willingness to actively contribute to the interdisciplinary synthesis of research on the issues of investment protection law and development cooperation [8]. The main tool for defragmentation of legislation can be a comparative legal approach, which creates an opportunity to speed up cross-comparative studies, as well as their comparison with national law [9].

At the same time, these areas of development of investment legislation include: ensuring equal protection for public and private investors regardless of the volume of investment; development of the insurance market; formation of a system of legal regulation of investment activities as a form of implementation of foreign economic and foreign policy interests of the Republic of Uzbekistan. Here, the key problem is to create incentives that encourage domestic and foreign entrepreneurs to invest in the production of finished products.

### **4. INTERNATIONAL EXPERIENCE OF LEGAL REGULATION IN THE FIELD OF INSURANCE AND INVESTMENT ACTIVITIES.**



After studying the foreign experience of legal regulation in the field of investment insurance, we came to the conclusion that countries with developed market economies have actively introduced national and regional investment insurance mechanisms. Particularly, major capital-exporting countries such as the United States and Switzerland introduced national investment insurance programs, which were later supplemented by private political risk insurance systems. These national insurance mechanisms became the main instrument belonging to developed countries, created to promote the interests of national enterprises in the world market, and were later supplemented by regional and international investment insurance schemes. Therefore, it can be concluded that investment protection is indeed an indispensable prerequisite for promoting international investment.

National investment guarantee mechanisms were introduced in response to the fear of investors to invest large sums of money in investing in regions of the world that have not always been stable. Experts draw attention to two interesting examples of such mechanisms: a private foreign Investment Corporation created by the US government, and an Investment Risk Management Guarantee Agency formed by the government of the Swiss Confederation.

Initiatives have also been taken at the regional level to limit non-commercial risk opportunities for investors. Particularly, African countries, the Caribbean and the Pacific Group of States expressed their intention to establish such a mechanism, but this desire was not materialized in the subsequent international agreement.

The first international guarantee organization can be considered Inter-Arab. This investment guarantee Corporation was established in 1971. In this context, we focus primarily on the goals and functions of this Arab Agency, leaving aside most of its organizational structures.

The Arab Investment and Export Credit Guarantee Corporation (AIECGC) is the first international intergovernmental organization that was established to form an interstate investment insurance mechanism. The very creation of such an organization was a breakthrough in the development of legal guarantees of investment and the result of cooperation between a wide range of States. The Regional nature of the organization made it possible to achieve the greatest mutual understanding between the participating States and to form a structure that is beneficial for all Arab States parties to the 1971 Convention. [10]

Many member states of the Corporation have national investment guarantee agencies that actively

cooperate with the AIECGC to reinsure investment projects. In practice, the Corporation and state insurance companies in their interaction form a unique well-coordinated mechanism to stabilize the investment climate in the Arab states. The AIECGC focuses on those investment projects that most correspond to the interests of the development of the economy of the Arab world [11].

Currently, international, intergovernmental organizations engaged in investment insurance against political risks are a very important component in the system of protecting the rights of investors. In this aspect, the activities of the Multilateral Investment Guarantee Agency established on the basis of the Seoul Convention of 1985 are of great interest. Legal scholars emphasize in their research papers that The Agency established on the basis of the Convention — the only universal international intergovernmental organization in the field of investment protection from political risks today. Its uniqueness is also reflected in the special legal status of the Agency, which allows it, as a subject of international law with all the necessary characteristics of an international intergovernmental organization, to carry out commercial activities, namely, foreign investment insurance. From a technical point of view, certain parallels can be drawn in the mechanism of functioning of MIGA and the national investment guarantee agencies existing at the time of its creation. The differences mainly lie in the way of creation, financing, and also in the use of the design international organization and the availability of the mechanism to a wider range of investors. As for the direct activity of insuring foreign investment against political risks, the difference between the two systems is extremely insignificant and this is not accidental, since the experience of state corporations that insure foreign investment against political risks was largely applied in the process of developing the draft Convention [12].

China is the largest exporter of capital in the world, but the system of legal regulation of investment activities in this country has some problems. For example, Chinese legal scholars draw attention to the fact that the current Chinese legislation on foreign investment suffers from a lack of unity, and many provisions in the content of various legislative acts are either duplicated or contradict each other. Up to half of the articles in some acts such as the PRC Law On joint mutual enterprises with Chinese and foreign capital, the PRC Law On enterprises of foreign capital and the PRC Law On joint ventures with Chinese and foreign capital have identical content. From the point of view of experts, the consolidation of the existing regulatory framework for foreign investment is an urgent task for





the Chinese legislator. They draw attention to the importance for China of the adoption of a single law On foreign investment, the draft of which was published in 2015, has been publicly discussed, and work is currently underway to take into account the numerous additions and proposals made during this discussion. The Chinese legislator will have to solve a very important task to further increase the investment attractiveness of the Chinese economy, eliminate capital outflow factors, ensure the security of foreign investments, and at the same time achieve reliable control over the beneficiaries represented by Chinese companies with foreign participation [13].

In our opinion, there are more different effective ways to solve the problem than the one proposed by the Chinese scientist, namely, combining the legislation on investment activities and foreign investment into a single legal act. Particularly, in 2019, Uzbekistan adopted a single Law On investments and investment activities. This law contains legal norms regulating the rights of both domestic and foreign investors. Thus, the problem of the defragmentation of investment legislation in our country has been largely solved.

In general, additional guarantees provided to foreign investors by national legislation are important for the successful attraction of capital at the international level. Currently, the civil legislation of Uzbekistan provides a number of additional legal guarantees to foreign investors. Articles 18 and 19 of the Law On investments and investment activities provide guarantees for the return of foreign investments in connection with the termination of investment activities, as well as a guarantee against adverse changes in legislation for an investor. Article 21 of this Law stipulates that the state guarantees investment protection in accordance with the legislation and international agreements of the Republic of Uzbekistan. Civil legislation provides for almost all the basic guarantees of the rights and legitimate interests of foreign investors. However, it is equally important to interact with other States within the framework of international insurance organizations.

In the course of the study, the author concluded that it is necessary to establish an international investment guarantee Agency within the Central Asian States, based on the experience of MIGA, AIECGC and ICIES. The presence of such an Agency will serve as a serious incentive for the economic development of the Central Asian States and create a more attractive investment climate for the inflow of investments from other regions as well. The author sets out in his dissertation research some of the main proposals for

creating such an organization. In addition, based on the experience of the United States and Switzerland, the author proposes to introduce a national investment insurance program in Uzbekistan.

## **5. RESULTS**

The results of this work include the following practical suggestions and recommendations for improving the civil legislation of the Republic of Uzbekistan:

- to supplement Article 4 of the Law of the Republic of Uzbekistan On Insurance Activities with a clause providing for the insurance of investment activities as a separate insurance sphere;
- to supplement the Law of the Republic of Uzbekistan On investment activities with a separate chapter regulating the process of insurance of investment activities;
- to establish in the framework of the Central Asian countries a regional organization dealing with investment insurance;
- to implement the national investment insurance program in the Republic of Uzbekistan based on advanced foreign experience.

The research results are fully consistent with generally recognized international legal standards.

## **6. DISCUSSION**

The purpose of the study is to develop practical recommendations aimed at improving the civil legislation of the Republic of Uzbekistan in the field of investment insurance.

The research hypothesis includes the process of improving civil legislation in the field of investment insurance is one of the most effective guarantees of the rights and legitimate interests of investors.

The main results of the research are practical recommendations developed on the basis of studying foreign experience in civil law regulation and scientific works of legal scholars aimed at improving the investment insurance system in Uzbekistan.

The research results can find practical application in the process of improving the national legislation of the Republic of Uzbekistan, as well as in the law enforcement activities of state authorities and administration. They can also be used in the process of teaching legal disciplines such as civil law, investment law, insurance law, and business law.

The direction of future research in this area may be the development of new methods of investment insurance using advanced information technologies, especially the development of Internet insurance, the creation of virtual investment insurance offices.



## **7. CONCLUSION**

Despite the rapid growth of the flow of investments into the economy of Uzbekistan, the field of civil law regulation of investment insurance is not yet sufficiently developed.

Until now, there are no unified international legal acts that would uniformly regulate the issues of investment insurance. This makes it difficult to work on a comprehensive analysis of the legal mechanism of foreign investment insurance.

Foreign scholars note the fact that among the publications on issues related to the legal aspects of investment relations, there are only a small number of studies on the legal regulation of investment activity [14].

Currently, there are practically no special studies in the Republic of Uzbekistan devoted to the issues of legal regulation of insurance of investment activities, civil regulation of various types and forms of this sphere.

Thus, a comprehensive analysis of scientific papers, the current civil legislation of the Republic of Uzbekistan, as well as law enforcement practice in the field of investment activity shows the need for further improvement of the legal framework in the field of investment insurance.

## **CONFLICT OF INTEREST**

The author confirms that the submitted data does not contain a conflict of interest.

## **GRATITUDES**

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