



On approval of the Regulation on the activities of investment ombudsman

Unofficial translation

Resolution of the Government of the Republic of Kazakhstan No.1069 dated December 26, 2015.

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Effective from January 1, 2016.

In compliance with Article 317 of the Commercial Code of the Republic of Kazakhstan dated October 29, 2015, the Government of the Republic of Kazakhstan DECIDES:

1. To approve the attached Regulations on the activities of investment ombudsman.
2. To invalidate the Decree of the Government of the Republic of Kazakhstan dated October 30, 2014 No. 1153 "“On Approval of the Regulation on the activities of investment ombudsman” " (Collected Acts of the President and the Government of the Republic of Kazakhstan, 2014, No. 66, Art. 614).
3. This Resolution shall be enforced from January 1, 2016 and is subject to official publication.

*The Prime Minister
of the Republic of Kazakhstan*

K. Massimov

Approved
by Resolution No. 1069
of the Government of the
Republic of Kazakhstan
dated December 26, 2015

REGULATIONS

on the activities of investment ombudsman

1. General Provisions

1. These Regulations on the activities of investment ombudsman (hereinafter - the Regulations) were developed in accordance with Article 317 of the Commercial Code of the Republic of Kazakhstan of October 29, 2015.

2. Investment ombudsman is an officer appointed (assigned) by the Government of the Republic of Kazakhstan, who is entrusted with the functions of assistance in protecting the rights and legitimate interests of investors.

3. Investment ombudsman shall carry out the activities in compliance with the Constitution of the Republic of Kazakhstan, the laws of the Republic of Kazakhstan, the Acts of the President and the Government of the Republic of Kazakhstan and other regulations, as well as these Regulations.

2. Main functions of investment ombudsman

4. Main functions of investment ombudsman include:

- 1) consideration of investors' appeals on issues, arising in the course of investment activities in the Republic of Kazakhstan, and making recommendations for their resolution, including interacting with government bodies;
- 2) assisting investors in resolving emerging issues in extrajudicial and pre-trial procedures ;
- 3) development and submission of recommendations to the Government of the Republic of Kazakhstan on the improvement of the legislation of the Republic of Kazakhstan on investment activities.

3. Rights and obligations of investment ombudsman

5. The investment ombudsman has the right:

- 1) to request and receive from state bodies and organizations, regardless of the form of ownership, the information necessary for the consideration of appeals, with the exception of those, constituting a commercial secret;
- 2) to immediate reception at the offices of managers and other officials of state bodies and organizations;
- 3) to hear the heads of the concerned state bodies and organizations or their deputies at the appeals of investors;
- 4) to enjoy other rights necessary for the exercise of the functions assigned to investment ombudsman.

6. In carrying out the activities, the investment ombudsman must:

- 1) take measures to ensure the observance and protection of the rights and legitimate interests of investors;
- 2) consider, in the order and terms established by the legislation of the Republic of Kazakhstan, investors' appeals regarding actions (inaction) of officials, decisions of state bodies, other organizations and their officials, and also take the necessary measures on them;
- 3) be objective and impartial when considering appeals;
- 4) not perform any actions that impede the implementation of the rights of the investor who applied for protection.

4. Investors appeal to investment ombudsman

7. In case of appeal the following information should be indicated: for an investor-individual — last name, first name, as well as patronymic, postal address, and for legal entities — name of the enterprise, legal address, reference number and date of appeal.

The appeal must be signed by the investor or his legal representative, whose rights and legal interests have been violated, or certified by an electronic digital signature.

8. In the case of an investor, complaining about the violation of his rights and legal interests — the name of the subject or position, as well as the names and initials of officials, whose actions (inaction) violate the rights and legal interests of investors, the motives and requirements must be indicated.

Documents and other materials, confirming the investor's requirements, must be attached to the appeal.

5. Consideration of investors' appeals by investment ombudsman

9. In order to assist investors in addressing emerging issues, the investment ombudsman:

1) clarifies to the investor all the issues, related to his rights and legal interests, including the forms and methods of their protection, provided for by the legislation of the Republic of Kazakhstan;

2) holds meetings, consultations, protocol meetings with state bodies and organizations to resolve issues of investors, hears the heads of concerned state bodies and organizations or their deputies on the consideration of investors' appeals.

Before sending claims to the courts, state bodies inform the working body of the investment ombudsman about the initiation of legal proceedings;

3) conducts an analysis of investors' appeals and the results of hearings of state bodies and organizations;

4) analyzes the legislation and identifies the norms that violate the rights of investors or impede the conduct of business, and, following the results, develops recommendations for the restoration of violated rights and legal interests of investors;

5) sends to the relevant state body and / or official, whose actions (inaction) violated the rights and legal interests of the investor, recommendations aimed at restoring the violated rights and legal interests of investors.

The state body and / or official who received the recommendations shall submit a written response to investment ombudsman on the results of their consideration in accordance with the procedure established by law.

Recommendations of the investment ombudsman are executed in the form of meetings' minutes at the investment ombudsman's office or letters.

The implementation of the recommendations of the investment ombudsman can be carried out through the approval of the action plan by the state body.

In case of disagreement with the recommendations of investment ombudsman, the official motivates his decision in writing.

Footnote. Paragraph 9 as amended by the Decree of the Government of the Republic of Kazakhstan dated 08.12.2020 No. 833 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

10. The investor's appeal is considered by the investment ombudsman within thirty calendar days from the date of receipt.

11. Investment ombudsman may recommend the investor to contact the prosecution authorities to verify the legality of the decision made by the state body or organization.

12. Investment ombudsman, in the event that investor's issues cannot be resolved in accordance with the applicable legislation, develops and makes recommendations on how to improve the legislation of the Republic of Kazakhstan, and directs them to the Government of the Republic of Kazakhstan.

6. Organization of the activities of investment ombudsman

13. The activity of investment ombudsman is ensured by an authorized investment authority.

Authorized investment authority:

1) registers and forwards appeals to investment ombudsman, forms and maintains an archive of appeals;

2) interacts with government agencies and organizations on the issues of ensuring the activities of investment ombudsman;

3) provides information, analytical, organizational and legal support for the activities of investment ombudsman.

14. Minutes meetings of the investment ombudsman on the consideration of problematic issues of investors are held as needed, but at least once a quarter. In this case, representatives of interested state bodies and organizations are invited to the meeting.

Footnote. Paragraph 14 as amended by the Decree of the Government of the Republic of Kazakhstan dated 08.12.2020 No. 833 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

15. Investment ombudsman engages consultants and experts from among individuals and legal entities of the Republic of Kazakhstan to prepare conclusions on the issues, outlined in an investor's address.

16. excluded by the Decree of the Government of the Republic of Kazakhstan dated 20.04.2019 No. 216.

17. excluded by the Decree of the Government of the Republic of Kazakhstan dated 20.04.2019 No. 216.