



Journal Website:
<https://theamericanjournals.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Research Article

THE LEGAL STATUS OF PARTICIPANTS OF ENTREPRENEURIAL ACTIVITY IN THE FREE ECONOMIC ZONES

Submission Date: November 20, 2023, Accepted Date: November 25, 2023,

Published Date: November 30, 2023 |

Crossref doi: <https://doi.org/10.37547/tajpslc/Volume05Issue11-11>

Sardor Bozarov

Acting Professor Of Cyber Law Department Of Tashkent State University Of Law, Doctor Of Sciences In Law, Uzbekistan

ABSTRACT

In this article, the author analyses legal status of participants of free economic zones. At the same time, the procedure of registration of participants of free economic zones have been studied. Moreover, the rights and lawful interests of participants of free economic zones have been considered.

KEYWORDS

free economic zones, legal status of participants of free economic zones, foreign direct investment, progressive economy, legal protection, benefits and preferences.

INTRODUCTION

Today the creation of free economic zones is effective and perspective direction of attraction of foreign investments, development of economic and social competence of countries and progressing of international relations among states.

The world practice shows that majority of countries try not only to create free economic zones of various types but they also try to take different measures on successful regulations of entrepreneurial activity in

free economic zones and considerably influence the prosperity of economy of their countries.

It is obvious that the participants of free economic zones are the enterprises and individuals, investors, local and foreign entrepreneurs. In addition, the states are also considered to be the participants of free economic zones.

Before undertaking scientific analyses of economic and entrepreneurial activities, accomplished in (the

territory) of free economic zones it is expedient to analyze the legal status of participants of free economic zones.

The comparative analysis of developed countries' experience as well as developing countries on establishing and successful regulation of free economic zones of various types shows that a legal status of residents or participants of free zones is established in the national legal acts on free economic zones of those countries.

Before the analyzation of this order on the example of our national legislation, we would like to give short information about our free economic zones. Currently, there are 24 special economic zones (SEZs) operating in the Republic of Uzbekistan, 23 of which specialize in industry, 1 in agriculture.

In total, from 2008 to 2022, 604 projects worth \$3.2 billion were implemented in the territories of special economic zones, of which foreign direct investment amounted to about \$896.9 million, through which about 55 thousand new jobs were created. The largest of these projects were implemented in the Angren FEZ (84 projects worth \$1,038.2 million), Navoi FEZ (73 projects worth \$495.0 million), Urgut FEZ (77 projects worth \$335.0 million). \$9 million) and SEZ "Kokand" (84 projects worth \$280.2 million).

During the period under review, enterprises participating in the FEZ produced over 500 types of industrial products worth 13.7 trillion soums and exported products worth \$283.1 million, an increase of 114% compared to the same indicator in 2022.

Providing oil extraction zones with the necessary infrastructure is a key factor in their effective functioning and attracting new investors and entrepreneurs to implement projects on their territory.

In this regard, in 2023 it is planned to allocate 847 billion soums to carry out work to connect existing oil extraction plants to engineering and communication networks.

In particular, this is due to the positive forecast for investment activity in the oil extraction zone: in 2023, 86 new investment projects worth \$983.6 million are planned to be implemented in the free economic zones of the Republic. As a result of the implementation of these projects, the production of 128 new types of industrial products will be mastered and 13 thousand new jobs will be created.

The legal status of participants of free economic zones is outlined in the Act of the Republic of Uzbekistan "On special economic zones" as of February 17, 2020 № 604. In the article 29 of this Act, it has been established the procedure for acquiring the status of a participant in a special economic zone.

In order to implement an investment project, the investor, within five working days from the date of receipt of a lease of a land plot put up for an electronic online auction, or an empty (inactive) building (except for cases when the land plot belongs to the investor), submits the registration authority at the location special economic zone documents for state registration of a business entity created by it as a legal entity or re-registration of a business entity previously created by the investor.

A legal entity acquires the status of a participant in a special economic zone after signing an investment agreement and inclusion in the Register of participants in a special economic zone.

To be included in the Register of Participants of the Special Economic Zone, a legal entity created by the investor submits to the Directorate of the Special

Economic Zone a copy of the certificate of state registration as a legal entity and a document confirming payment of the fee for inclusion in the Register of Participants of the Special Economic Zone in the amount determined by the Cabinet of Ministers of the Republic Uzbekistan.

The Directorate of the Special Economic Zone, within two working days from the date of receipt of the documents specified in part three of this article, includes the legal entity in the Register of Participants of the Special Economic Zone and issues a certificate of participant of the Special Economic Zone in the form approved by the Cabinet of Ministers of the Republic of Uzbekistan.

The Directorate of the Special Economic Zone, within one working day after the inclusion of a legal entity in the Register of Participants of the Special Economic Zone, notifies the relevant tax, customs and statistical authorities about this.

Based on article 30 the participants of special economic zones have following rights and obligations.

A participant in a special economic zone has the right to:

Enjoy guarantees of legal protection, benefits and preferences provided for by law for participants in special economic zones;

receive land plots for rent through an electronic online auction, for the use of buildings, structures, including on a lease basis, and build infrastructure facilities for carrying out production activities in the manner prescribed by this Law;

demand from the directorate of the special economic zone the timely provision of its engineering, communications and road transport infrastructure in

accordance with the investment agreement and network schedules for the implementation of the investment project;

use on equal terms all types of services provided by the directorate of the special economic zone to participants in the special economic zone, including on a contractual basis;

carry out, at their own expense, the construction of infrastructure facilities necessary for the implementation of the investment project, in accordance with the master plan of the special economic zone and exercise other rights provided by law.

At the same time, participants in a special economic zone is obliged to:

perform duties in a timely manner,

provided for by law and investment agreement;

comply with legal requirements;

submit to the directorate of the special economic zone a report on the fulfillment of obligations under the investment agreement and business plans.

The transfer by a participant of a special economic zone of its rights and obligations stipulated by the investment agreement to another legal entity before fulfilling all obligations under the investment agreement is not allowed.

A participant in a special economic zone carries out its activities in accordance with this Law and other acts of legislation, as well as the investment agreement.

These normative-legal acts have served to create and develop of unique legal regime including tax, customs facilitations and other preferences for investors and

entrepreneurs. In addition, based on this Act the unique legal status of participants of free economic zones has been established.

Analyzing the legal status of participants accomplishing the entrepreneurial activity in free economic zones of the Commonwealth of Independent States, we can say these participants have their different characteristics.

For instance, in the article 1 of the law “On special economic zones in the Republic of Kazakhstan” of the Republic of Kazakhstan № 469-IV ZRK as of July 21, 2011 the conception of participants of a special economic zones was given. In accordance with this, a participant of the a special economic zone is recognized as legal entities performing in the territory of the special economic zone the priority types of activity and included in the single list of participants of the special economic zone .

In the law of the Azerbaijani Republic as of April 14, 2009 №791-III

“On special economic zones” the legal status of participants of special economic zone is analyzed. On the basis of this law the participants of this area named as “Residents” recognized as the legal entities and physical persons registered according to the legislation of the Azerbaijani Republic, received within the procedure established by this law the registration certificate of the special economic zone for accomplishing entrepreneurial activity in the territory of a special economic zone .

The free economic zones of the Republic of Turkmenistan operate their activity on the basis of the law of the Republic of Turkmenistan “On free economic zones” as of October 9, 2017 № 620-V . The subjects of entrepreneurial activity of free economic

zones are recognized as the “Participants of free economic zones”. On the basis of this law the participants of free economic zones may be:

- 1) legal entities of Turkmenistan, regardless of their forms of ownership and organizational and legal form;
- 2) legal entities of foreign states that carry out their activities in the territory of free economic zones through branches and representative offices;
- 3) Individuals engaged in entrepreneurial activities without formation of legal entity – individual entrepreneurs.

In line with law of the Republic of Kyrgyzstan as of 11, 2014 № 6 the participants of free economic zones are the subjects recognized as the “legal entity” registered by the authorized state body and registered in the General Directorate of SEZ in accordance with the legislation of Kyrgyz Republic .

Nowadays China is one of the most experienced countries on establishing and successfully regulating free zones of various types. In other words, China possesses leading place on creating these areas. However, the legal status of participants of free economic zones of the Chinese People’s Republic is not comprehensively explained in the legislation of China on free economic zones. Specifying our opinion, we analyzed the legal basis of free zones of the Chinese People’s Republic. In the Regulation “On the special economic zones in Guangdong province” adopted at the session 15 as of August 26, 1980 there is not the concept of the residents of free economic zones. However, only in the second article of this law it is outlined that enterprises and individuals in the special zones must abide by the laws, decrees and pertinent provisions of the People’s Republic of China. Where

there are special provisions in these Regulations, they shall be carried out accordingly. Given the above, it should be noted that in the territory of free economic zones of the People's Republic of China legal entities and individuals accomplish the entrepreneurial activity.

Today the South Korea is one of the most developed countries with its progressive economy among Asian countries. Aimed at developing its economy the Republic of Korea tries to enlarge foreign trade relations and increase the export volume through the creation of market in the system of energy, raw materials, rendering the services, agriculture as well as industrial production. And, of course, free economic zones are of great importance in the achievement of these favorable results. Therefore, by now in the Republic of Korea some free economic zones like "Busan-Jinhae", "Gwangyang" "Bay Area", "Yellow Sea", "Daegu-Gyeongbuk", "Saemangeum-Gunsan", "East Coast" and "Chungbuk" are successfully operating. The legal status of participant of these economic areas was established in the "Act on Designation and operation of free economic zones of Republic of Korea" and entered into force on July 1, 2003 and in the Foreign investment promotion Act Republic of Korea.

According to these legal acts, the participants of free economic areas named "Foreigners" shall refer to individuals of foreign nationality, corporations (foreign corporations) established in accordance with any relevant foreign Act or an international economic cooperative organization as prescribed by the Presidential Decree. The analyses of legal acts on free economic zones, striking by showed that there is no special norm on registration of participants of free economic areas.

Last years Malaysia also achieved good results on creation and regulation the activity of free economic

zones. The first legal act on free economic zones was the Law "On free trade zones". After some time, there was much demand for the amendment and development of this law. Therefore in 1990 it the law "On free trade zones" was adopted in new edition. On the basis of this law and other legal acts today in Malaysia many free economic zones are functioning. Two free economic zones in Penang "Bayan Lepas" and "Prai", five zones in Malacca "Peringggit", "Tanjung Kling" and "Batu Berendam", four FEZ in Selangor "Teluk Panglima Garang", "Sungai Way", "Hulu Klang", "Pulau Indah", two in Perak "Kinta" and "Jelapang", four in Johor "Pasir Gudang", "Tanjung Pelepas" and one in Sarawak as "Samar Jaya". However, it should be noted that, in the analyzed law, there is no established norms on explaining the legal status of participants of FEZ.

Today, the economy of Singapore has dramatically increased. This country also has good experience in creation of free economic areas. At the moment free economic zones of various types like ports "Jurong", "Sembawang Wharves", "Pasir Panjang Wharves" and "Logistic park Singapore" near the airport are operating successfully. The regulation of these free areas based on law "Free trade zones act" as of August 31, 2014. This law was made comprehensively and includes 7 chapters. However, in the analyzed legal act the participants accomplishing business activity in the free zones of Singapore are not prescribed in this Act.

By analyzing the abovementioned laws of free economic zones of various countries, we can say that the legal status of participants of these areas is differently explained in the national legislation on free economic zones of every country. For example, in the legislation on free economic zones of the some developing countries the participants of free zones are named "Residents".

In the Law of Kazakhstan on free economic zones, in the Regulation

“On free economic zones” adopted on the basis of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On additional measures to improve the effectiveness of the activity of free economic zones and small industrial zones” as of January 16, 2018 №29 the participants are explained as “Economical entities” and other countries name the residents of these zones are “Foreigners”. However, these participants have the same legal status as they are registered in the prescribed order and have various kinds of preferences and incentives to accomplish the entrepreneurial activity in the territory of free economic areas.

Comprehensively researching the legal status of participants of free zones established by the legislation of many developed and developing countries we suggest the theoretical concept to the participants of free economic.

The participants of the free economic zones – the subjects accomplishing entrepreneurial activity who are registered in the territory of the free economic zones prescribed by the law and signed a contract with administrative bodies and have a set of privileges and preferences to accomplish of entrepreneurial activity.

It can be explicitly analyzed in the following way: It is obvious that a free economic zone is the territory, the participants of which are exempted from different kinds of taxes and obligations. In other words, participants are granted various kinds of tax, custom and other benefits and facilitations in these areas. The managing of preferences and facilitations the participants of these zones are distinguished from other participants who operate outside of a free economic zone.

REFERENCE

1. Law of the Republic of Uzbekistan “On Special Economic Zones” as of February 17, 2020 № 604. National Legislation Database, 02/18/2020, No. 03/20/604/0175; 06/07/2022, No. 03/22/775/0477
2. Law of the Republic of Kazakhstan №469-IV ZRK as of 21.06. 2011 “On special economic zones in the Republic of Kazakhstan”. Available at: <http://invest.mid.gov.kz/en/pages/law-republic-kazakhstan-special-economic-zones-republic-kazakhstan>
3. Law of the Republic of Azerbaijan “On special economic zones” as of April 14, 2009 №. 791-III G. Available at: <http://cis-legislation.com/document.fwx?rgn=28132>
4. Law of the Republic of Turkmenistan “On free economic zones’ as of October 9, 2017, № 620-V U P–6. Available at: http://www.minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=15171
5. The Law of the Kyrgyz Republic “On Free Economic Zones in the Kyrgyz Republic as of January 11, 2014 No. 6. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/205226?cl=ru-ru>
6. The Charter of the People’s Republic of China “On the Special Economic Zones in the Province of Guangdong”, approved at the 15th Session of the Standing Committee of the 5th Congress of People’s Representatives of the 26 th of August 1980. Available at: https://www.wto.org/english/thewto_e/acc_e/chn_e/wtacchn46_leg_8.pdf
7. Act “On designation and operation of free economic zones” (Republic of Korea) as of July 1, 2003. P – 2. Available at:

<http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan011500.pdf>

8. Free zone act of Malaysia as of April 23,1990. Available at:
<http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20438.pdf>
9. Yeow Teck Chai and Ooi Chooi Im The Development of Free Industrial Zones–The Malaysian Experience
10. P.-9, // April27, 2009. Available at: <https://cpb-us-e1.wpmucdn.com/share.nanjing-school.com/dist/1/43/files/2012/10/info.worldbank.org-sghsat.pdf>
11. <http://www.fez.go.kr/global/en/index.do>

