

On the approval of Regulations on the activities of Investment Ombudsman

Resolution of the Government of the Republic of Kazakhstan dated December 26, 2015 # 1069

To enter into legal force from January 1, 2016.

In accordance with Article 317 of the Entrepreneurial Code of the Republic of Kazakhstan dated October 29, 2015, the Government of the Republic of Kazakhstan **RESOLVES:**

1. to approve the attached Regulations on the activities of investment Ombudsman.
2. to invalidate the Resolution of the Government of the Republic of Kazakhstan dated October 30, 2014 # 1153 “On approval of Regulations on the activities of investment Ombudsman” (Collected Acts of the President and the Government of the Republic of Kazakhstan, 2014, # 66, p. 614)
3. This Resolution shall enter into legal force from January 1, 2016 and is subject to official publication.

*Prime-Minister
of the Republic of Kazakhstan*

K. Massimov

Approved
by the Resolution of the Government
of the Republic of Kazakhstan
dated December 26, 2015 # 1069

Regulations on the Activities of Investment Ombudsman

1. General Provisions

1. These Regulations on the activities of Investment Ombudsman (hereinafter – the Regulations) are developed in accordance with Article 317 of the Entrepreneurial Code of the Republic of Kazakhstan dated October 29, 2015.
2. Investment Ombudsman is an official appointed (determined) by the Government of the Republic of Kazakhstan and entrusted with the functions to assist in protecting the rights and lawful interests of investors.
3. Investment Ombudsman shall be guided in his activities by the Constitution of the Republic of Kazakhstan, laws of the Republic of Kazakhstan, acts of the President and the Government of the Republic of Kazakhstan, other normative legal acts of the Republic of Kazakhstan and these Regulations.

2. Main Functions of Investment Ombudsman

4. The main functions of investment Ombudsman shall be the followings:

- 1) consideration of applications of investors on issues arising during the implementation of investment activities in the Republic of Kazakhstan, and making recommendations for their resolution, including interaction with public authorities;
- 2) assistance to investors in addressing emerging issues in extra-judicial and pre-trial orders;
- 3) development and submission to the Government of the Republic of Kazakhstan of recommendations on improving the legislation of the Republic of Kazakhstan.

3. Rights and Obligation of the Investment Ombudsman

5. Investment Ombudsman shall have the right to:

- 1) request and receive from the state authorities and organizations regardless of form of their ownership any information required for the consideration of applications, except for that making a trade secrets;
- 2) immediate receipt by the Heads and other officials of government authorities and organizations;
- 3) hear Heads of the interested state authorities and organizations or their deputies on the investors' applications;
- 4) other rights necessary to perform functions assigned to the Investment Ombudsman.

6. In performance of his/her activities, the Investment Ombudsman shall:

- 1) take measures to ensure respect for and protection of the rights and legitimate interests of investors;
- 2) in accordance with the procedure and within terms established by the legislation of the Republic of Kazakhstan, consider applications of investors regarding any actions (inaction) of officials, decisions of government authorities and other organizations and their officials, as well as take necessary measures on them;
- 3) be objective and impartial when considering the applications;
- 4) not commit any actions that may impede the exercising by the investor, seeking protection, his/her rights.

4. Applications of Investors to Investment Ombudsman

7. An application by an investor who is an individual shall contain his/her name, surname and optionally his patronymic and mailing address, while an application by an investor which is the legal entity shall contain the name, legal address, reference number and the date of application.

The application shall be signed by the investor, whose rights and lawful interests have been violated, or by his/her legal representative or shall be certified by the electronic digital signature.

8. In case that an application is filed by an investor regarding the violation of his/her rights and lawful interests, the name of the entity or the positions, surnames and initials of officials, whose actions (inaction) violate the rights and lawful interests of the investors, the motives of an application and the investors' requirements shall be specified in the application.

Any documents and other materials confirming the investor's requirements shall be attached to the application.

5. Consideration of Investors' Applications by Investment Ombudsman

9. In order to assist the investors in addressing any emerging issues, the Investment Ombudsman shall:

- 1) explain to the investor issues related to his rights and lawful interests, including forms and methods of their protection stipulated by the legislation of the Republic of Kazakhstan;
- 2) hold meetings, consultations, protocol meetings with public authorities and organizations to address the issues raised by investors, hear the heads of interested public authorities and organizations or their deputies on the issues related to consideration of investors' applications;
- 3) analyze the applications of investors and the results of hearings of public authorities and organizations;
- 4) analyze the legislation and reveal the regulations that violate the rights of investors or hinder the conduct of business, and following the results make recommendations on the restoration of violated rights and lawful interests of investors;
- 5) submit to the relevant public authority and/or official, whose actions (inaction) violated the rights and lawful interests of investors, recommendations to restore the violated rights and lawful interests of investors.

The public authority and/or official, who received recommendations, shall provide a written response to Investment Ombudsman on the results of their consideration in the manner prescribed by the legislation.

Recommendations by Investment Ombudsman shall be executed in the form of minutes of meeting at the Investment Ombudsman's office or as letters.

In case of disagreement with recommendations of Investment Ombudsman, the official shall essentially motivate his decision in writing.

10. An investor's application shall be considered by Investment Ombudsman within thirty calendar days from the date of receipt.

11. Investment Ombudsman may recommend the investor to apply to the prosecutor's office for the inspection of legality of the decision made by the public authority or organization.

12. If investors' questions cannot be solved in accordance with the current legislation, Investment Ombudsman shall develop and submit to the Government of the Republic of Kazakhstan recommendations to improve the legislation of the Republic of Kazakhstan.

5. Organization of Activities of Investment Ombudsman

13. Activities of investment Ombudsman shall be supported by the authorized body on investments.

The authorized body on investments shall:

- 1) register and transmit applications for the consideration of investment Ombudsman, create and maintain an archive of applications;
- 2) interact with public authorities and organizations on issues of the provision of investment Ombudsman's activities;
- 3) provide information and analytical, organizational and legal support of investment Ombudsman.

14. Once a month, the Investment Ombudsman shall hold a protocol meeting, if the investor's application should be considered at the meeting. In this case the interested public authorities and organizations shall be invited to the meeting.

15. Investment Ombudsman shall draw consultants and experts from among the individuals and legal entities of the Republic of Kazakhstan to prepare conclusions on the issues set out in the application of the investor.

16. Annually, in March, Investment Ombudsman shall report to the Government of the Republic of Kazakhstan on his activities.

17. Investment Ombudsman shall report on the results of his activities and recommendations made at the meetings of the Investment Climate Improvement Council.