



NEW EDITION OF THE LAW OF THE REPUBLIC OF UZBEKISTAN ON INVESTMENTS AND INVESTMENT ACTIVITY AS AN IMPLEMENTED GENERATION OF INTERNATIONAL INVESTMENT STANDARDS

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ABSTRACT

This article provides an analysis of amendments in the Law of Uzbekistan on investments and investment activities dated December 25, 2019 and its compliance with international investment protection standards. The analysis focuses on key provisions of the law, including investor rights protection, dispute resolution mechanisms, and investment incentives. The article also examines international investment agreements, such as bilateral investment agreements and regional investment agreements to which Uzbekistan has joined, and assesses their impact on the investment environment of the country. The findings show that although Uzbekistan's investment law has made significant progress in protecting investors' rights and providing incentives for investment, there are still gaps that need to be filled to compliance with international standards on investment protection.

In 1991, shortly after independence, Uzbekistan enacted its first law to regulate foreign investment, protecting the rights of foreign investors to repatriate profits and remit money abroad. The law also allows the establishment of joint ventures and foreign-invested companies. In 1998, a new law was passed to attract more international investment by providing tax incentives, exemption from customs duties and simplifying licensing and approval procedures. In 2001, the old law on foreign investment was replaced by a new law requiring the establishment of a specialized investment agency to facilitate investment from domestic and international sources. The most recent law on investment activities was passed in 2019 (hereinafter - LRU №598 December 25, 2019) and provides investors with greater legal protection, including the ability to sue the government for forfeiture of their investments without adequate compensation and recourse against adverse government actions. The Uzbek government remains committed to improving the investment climate to attract more foreign investment and stimulate the economy. The main difference between the 1999 and 2019 investment laws is the level of protection granted to investors, the former providing tax



breaks and customs exemptions, but limited legal protections.¹ However, LRU №598 of December 25, 2019 has taken various measures to ensure the protection of investors' rights and create a welcoming environment for domestic and international investors. It includes protecting property rights, ensuring fair compensation in the event of expropriation, and granting investors the right to appeal adverse government decisions that directly affect their investments.

Although LRU 598 of December 25, 2019 has made significant progress in complying with international investment standards, it constitutes a set of principles and rules that govern the conduct of states and investors. investment in the international investment context. These standards aim to promote and protect foreign investment, create a stable and predictable investment climate, and ensure that investment activities contribute to sustainable economic development.

Some of the key international investment standards include:

- Fair and Equal Treatment: This standard requires countries to treat foreign investors fairly and equally and provides them with a stable and predictable regulatory and regulatory environment.
- Protection against expropriation: This standard provides investors with protection against expropriation or nationalization of their investments without adequate compensation.
- National treatment: This standard requires countries to treat foreign investors and their investments no less favorably than domestic investors and investments.
- Free money transfer: This standard allows investors to freely transfer funds to and from home countries without undue restrictions or delays.²
- Transparency and Disclosure: This standard requires states to provide investors with clear and transparent information about investment policies, laws, and regulations.³
- Dispute Settlement: This standard provides for the settlement of investment disputes between investors and states through neutral and independent mechanisms, such as international arbitration.⁴

In the following, 20 main achievements of this LRU №598 will be enumerated:

- 1) LRU №598 dated December 25, 2019 replaced three-previous laws
 - On foreign investments”,
 - “On investment activities”,
 - “On guarantees and measures of protecting the rights of foreign investors”,
- 2) Investments can be not only tangible but also intangible goods and rights to them, rights to intellectual property, as well as reinvestments, which include cash, securities, buildings, equipment and patents etc.
- 3) Investors are divided into: “domestic” and “foreign” investors, as well as the definitions of them;

¹ Islambek Rustambekov, & Diyorbek Kimsanov (2019). Legal reforms in the field of improving the investment climate in Uzbekistan. *Investment Valuation*, (1(13)), 10-16.

² International Protection of Investments The Substantive Standards ,(2020) pp. 970 - 998 <https://doi.org/10.1017/9781139004978.01> Cambridge University Press

³ https://unctad.org/system/files/official-document/iteit20034_en.pdf

⁴ Rustambekov, I. R. (2018). Some practical aspects of resolving investment disputes in international arbitration (on the example of Uzbekistan). In *Theoretical Aspects of Jurisprudence and Law Enforcement* (pp. 54-58).



- 4) The definition of Foreign direct investment (hereinafter-FDI) is given;
- 5) The definition enterprises with foreign investments⁵
- 6) The classification of investments by the target of the object is subdivided into capital, financial and social;
- 7) Forms of implementing investments are written;
- 8) The expansion of investors' rights;
- 9) expansion of guarantees of investors' rights;
- 10) Stabilization mode (guarantee for investors against unfavorable changes in the legislation)
- 11) protection of investments from nationalization and expropriation;
- 12) Application of benefits and preferences;
- 13) Tax credits and investment subsidies in case of conclusion of investment agreements with Government;
- 14) Obligation to conduct due-diligence in sanitary-hygienic, radiation, environmental, architectural, urban areas;
- 15) Introduction mode of "investment visa" and "investment residency";
- 16) Right to lease non-agricultural land plots for up to 50 years;
- 17) Reimbursement or compensation for the losses caused as a result of an illegal administrative act of a state body on the basis of court decision;
- 18) Introduction of position of Commissioner for Protection of Rights and Legitimate Interests of Entrepreneurs under the President of Republic of Uzbekistan;
- 19) application of mediation in the resolution of investment disputes.
- 20) suspension of repatriation of funds on a discriminatory basis in case of insolvency and bankruptcy, violation of rights of creditors, criminal acts and administrative offences in accordance with judicial or arbitral award.¹

LRU №598 dated December 25, 2019 has made significant progress in aligning with international investment protection standards.⁶ Here are some key comparative analyses:⁷

☑ Investor concept: LRU №598 identifies domestic and foreign investors, complying with international standards for investment protection. However, it can be more inclusive by defining investors to include all natural and legal entities investing in the country, regardless of their nationality or place of residence.

☑ Investment protection regulations: LRU №598 requires anti-corruption and antitrust provisions in all investment contracts, which is a positive step towards ensuring fair and transparent competition. In addition, the new version of the law provides for investment subsidies in the form of tax and customs relief, which is the practice in many countries. However, the law could be more explicit in protecting investors from expropriation and ensuring adequate compensation in the event of expropriation. ☑ Dispute settlement mechanism:

⁵ <https://www.tadqiqot.uz/wp-content/uploads/2017/11/6-Some-questions-of-the-legal-regulation-of-activity-of-the-enterprises-with-foreign-investments-and-protection-of-investors-rights-in-Uzbekistan>.

⁶ Gulyamov, S.S., Narziev, O.S. (2023). Uzbekistan Investment Law and Policy: Challenges and Opportunities. In: Asian Yearbook of International Economic Law. Springer, Cham. https://doi.org/10.1007/16517_2023_17

⁷ Anderson M, Tomotsune (2022) Uzbekistan preparation of the investment guidebook of Uzbekistan and information gathering and surveys regarding investment promotion activities. Japan International Cooperation Agency (JICA). <https://openjicareport.jica.go.jp/pdf/1000047739.pdf>



LRU №598 establishes a multi-level dispute resolution mechanism that complies with international standards for investment protection. However, it is not clear whether the parties can take their dispute to a higher level of dispute resolution if they choose not to participate in mediation. The law could be improved by providing clear guidelines on the investment dispute mediation process and ensuring that parties have the right to submit their disputes to arbitration or other forms of dispute resolution.

☒ Investment promotion: Uzbek Law establishes a "one-stop shop" for investors to access consulting services and documentation support, which is a positive step towards investment promotion. However, the law could be improved by providing more incentives for investment in priority economic sectors and by simplifying administrative procedures for investors. Streamlining investment procedures:

☒ The new law offers a simple and streamlined investment process for foreign and local investors. It eliminates unnecessary bureaucratic procedures and reduces the time and cost of applying for an investment license.

☒ Protection of investors' interests: The law further protects investors' rights and interests, including the right to fair and equal treatment, protection against expropriation, and the right to repatriate profits and investments abroad.

☒ Incentives for investors: The law provides a range of incentives and incentives for investors, including tax breaks, customs exemptions and subsidies for infrastructure development. These incentives are designed to encourage investment in priority sectors such as agriculture, tourism and high-tech industries.

☒ Promoting Public Private Partnership (PPP): The law provides a legal framework for the development of PPP projects in Uzbekistan. It encourages cooperation between the public and private sectors and facilitates the implementation of PPP projects in different sectors.

Undoubtedly, LRU №598 represents a significant step forward in creating a more favorable investment climate in the country. It aims to attract more foreign investment, promote economic growth and development, and improve the standard of living for Uzbekistan's citizens. And there has been made significant progress in aligning with international investment protection standards, but there is still room for improvement in certain areas.⁸ Some of these include:

○ Implementation and application: One of the potential limitations of the new law is the challenge of ensuring effective enforcement and enforcement. Uzbekistan has a history of bureaucracy inefficiencies and corruption, which could hinder the practical implementation of the new law.

○ Lack of clarity: The law may lack clarity in some areas, such as criteria for determining which investments qualify for incentives and dispute resolution procedures. This lack of clarity can create confusion and uncertainty for investors.

○ Limited scope: The law may be limited in scope as it applies only to investments in certain sectors and not to others, such as small and medium-sized enterprises (SMEs) or small businesses. newly established business. This could limit the impact of the law on the economy as a whole.

⁸ Gulyamov, S.S., Narziev, O.S. (2023). Uzbekistan Investment Law and Policy: Challenges and Opportunities. In: Asian Yearbook of International Economic Law. Springer, Cham. https://doi.org/10.1007/16517_2023_17



- Limited Protection: While the law better protects the rights and interests of investors, it may not provide adequate protection in all cases. For example, the law may not address issues related to intellectual property rights, which may be of concern to some investors.
- Lack of integration: This law may not be fully integrated with other laws and regulations in Uzbekistan, such as labor and tax laws. This lack of integration can create inconsistencies and conflicts, making it harder for investors to navigate the regulatory landscape.

To conclude, despite of some drawbacks in the application LRU №598 can be seen as an important step towards aligning Uzbekistan's investment climate with international standards. The law provides a more favorable investment climate for both foreign and local investors and creates a more predictable and stable business environment in Uzbekistan.

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