

## THE LEGAL REGULATION OF THE CONTRACT ON THE ORGANIZATION OF INVESTMENT ACTIVITIES

Zaynobiddinova Farangiz Bakhtiyor Qizi,

PhD student of the University of World Economy and Diplomacy

E-mail: FZaynobiddinova@uwed.uz

<https://orcid.org/0000-0002-3451-5606>

### Abstract:

This article discussed issues related to contracts on The Organization of Investment Activities. Moreover, the views of legal scholars on this type of contracts were also studied and the features of the application of these contracts were analyzed based on comparison with existing civil contracts.

Based on the results of the study, several proposals were recommended to improve legislation in the field of using Agreement on The Organization of Investment Activities in the Republic of Uzbekistan, the implementation of investment activities through these agreements and to ensure effective protection of investors' rights.

**Keywords:** *intermediation, organization of investment activities, investment organizer, contractor, right of obligation.*

### Introduction

Today, investment is a contribution intended for the development of business activities, and investment activity is the implementation of these investments [1], the creation of legal instruments regulated by law, aimed at ensuring the protection and guarantees of investments, protecting the rights and interests of investors. The state is interested in attracting investment to ensure the stability and development of its economy, and issues of improving the regulation of investment activities in the country are of paramount importance. Successful implementation of investment activities in the Republic of Uzbekistan is an interaction with the effective functioning of contractual and legal norms governing this activity.

It should be noted that the civil code of the Republic of Uzbekistan does not mention the concept of “investment agreement”, which, while recognizing the features of these agreements, indicates that their legal nature is not sufficiently reflected in our national legislation.

In addition, according to part 3 of article 354 of the Civil code of the Republic of Uzbekistan [2] (hereinafter Civil code), the parties have the right to conclude an agreement that is not provided for by law, on the basis of which an investment agreement can be recognized as a separate type of civil contract. One of the agreements regulating such investment relations is

The Agreement on the organization of investment activities, one of which is not named in the national legal system. The investment organization agreement is an agreement, unnamed in the domestic legal system. The absence of special provisions in the legislation regulating this agreement objectively makes it difficult to find an answer to the question of its legal essence. The relations of its parties are formed over property, are commodity-monetary in nature, and are based on their equality and autonomy of will.

The contract for the organization of investment as a transaction is the basis for the emergence of a binding legal relationship, which is why the provisions of section II of the Civil Code are applied to it. This raises the problem of determining its place in “The Law of Obligations” sub-sector. Let us consider this question in order to compare the contract under study with other civil law contracts that belong to different groups of obligations.

Delimitation of The General Purposes Agreements, one of which is The Investment Agreement with the Republic of Uzbekistan [3], from other agreements is performed, first of all, according to the criterion of the unity of purpose of its participants [4]. Moreover, the essence of this goal is not in the exchange of goods as such, but in the organization of the interrelationships of the subjects of future commodity exchange [5].

At first glance, it may seem that the parties to the investment agreement have a common goal is the implementation of the investment project. However, an analysis of this goal allows us to establish that the interests of the parties to the agreement in question differ. Their will, in the words of I. B. Novitsky [6], is directed to the pursued “goal from opposite points”. Thus, the investor needs the result of the investment project implementation, and the investment organizer, in turn, is interested in receiving remuneration for organizing the implementation of the required set of measures. In fact, the latter is provided with a specific service, which consists in performing legal and actual actions aimed at implementing the project.

Thus, the interests of the subjects of the contract for the organization investments are not identical and directed in the opposite direction: each of them has the right to demand execution in relation to himself personally and is obliged make the corresponding execution in favour of the counterparty. Therefore, the parties to this agreement lack unity of purpose, which does not allow to interpret it as a general-purpose obligation. Besides In addition, the compared contracts differ by subject composition.

Provided by Presidential Decree No. 4732 [7], the contract for the creation of a shared object construction is delimited from the investment organization agreement according to the criteria of the subject and object. So, the subject of the first may include actions for the construction of a shared construction object on their own.

In accordance with the second, the investment organizer does not perform any work independently, but engages a contractor for this. Contract creation of an object of shared construction is aimed at creating a narrow a certain list of immovable things: residential and

(or) non-residential premises in an apartment building (or part thereof), other related him of real estate objects [8].

V.V. Vitryansky notes that the terms of reference of the participant in the equity construction, “as a rule, is reduced to the payment of a certain amount of money to the developer on account of the promised residential or non-residential premises”. This circumstance in some way brings this agreement closer to agreement for the organization of investment and gives rise to delimitation the last from the contract of sale of property to be created in the future.

The main difference between an investment organization agreement and an agreement the order is in the condition of the subject. Despite the fact that both the attorney and the investment organizer act at the expense of the counterparty, the first acts in civil circulation on behalf of the principal, and the second is from your name. In addition, the subject of the order agreement includes the commission only legal actions, most often contracts and other transactions, by a party which becomes not an attorney (representative), but a principal (represented).

The investment organization agreement cannot be recognized and preliminary sales contract [9]. Since in connection with the execution of the contract for the organization investment, the investor receives the material result of the implementation investment project (except for investments in intellectual property), it seems appropriate to correlate it with the contract. Both agreements are similar in a number of ways. In particular, as an investor, so the customer gives the contractor an assignment, and at the end of its execution accept some materialized result, and also have the right to provide necessary equipment and materials (investor can use as an investment).

The general aspect that delimits the contract for the organization investment from these agreements that mediate the provision of services is criterion of the long-term contractual relationship. The moment of data execution agreements is often close to the moment of their conclusion. Implementation an investment project always requires the establishment between the parties the investigated contract of long-term relationship, the duration of which, usually measured in years.

The Investment Organization Agreement is close to the Agreement Trust Management of Property (Article 849 of the Civil Code), which causes well-known difficulties in distinguishing them. Transfer of property to trust management is similar to the transfer of investments to ensure their investment, which does not entail the transfer of ownership of such objects to a trust the manager or the investment organizer. With regard to the transferred things, both of these subjects can commit any legal and factual actions in the interests of the counterparty. In relationships with third parties as the trustee and the investment organizer act from your name. Property transferred respectively by the investor and the giver, subject to separation.

Analysis of the essence of the relationship generated by the contract for the organization investment, and relevant judicial practice allows us to state systematic inclusion in the content of this agreement as a transaction of conditions a number of contracts named in the Civil Code. These include:

1. Conditions for the segregation of the investment transferred to the organizer property and the consequences of transferring things to him, encumbered with a pledge, inherent in The Contract of Trust Management of Property (Art. 817 and 849 of the Civil Code);
2. Condition on limiting the possibilities of the investment organizer transfer their functions for investment and organization investment process, typical for Contracts of Order (Art.817 of the Civil Code) and Trust Management of Property (Art. 855 of the Civil Code);
3. Conditions for ensuring the safety of the investment organizer investments and liability for their loss or damage, borrowed from The Storage Agreement (Art. 876 and Art. 880 of the Civil Code)
4. Condition on the order of acceptance and transmission of the implementation result an investment project inherent in The Work Agreement (Art. 631 and 646 of the Civil Code);
5. The condition on the investment report with the attachment of exculpatory documents stipulated for The Contracts of Order (Article 820 of the Civil Code), the Trust Management of Property Agreement (clause 5 Art. 857 of the Civil Code);
6. The condition on the possible requirements of the investor in case of detection shortcomings as a result of the implementation of the investment project, defined in the art. 646 of the Civil Code for a Work Contract.

Taking into account the norms of paragraph 2 of Art. 391 of the Civil Code, this gives reason to consider the issue of the mixed nature of the contract for the organization of investment. Take away attention to this issue follows also because in the Russian Federation “District arbitration courts qualify investment contracts” exactly as “Mixed Contracts”.

Indeed, if the contract for the organization of investment was exhausted by the combination in it only of those conditions that are inherent agreements provided for in the Civil Code, there would be no need separating it into an independent contractual form. Analysis of the essence of this the contract allows you to identify a number of aspects peculiar only to him, which predetermine the specifics of the obligation it generates and require special legal regulation. They are:

- a) The subject of the contract, implying the actions of the investor on the transfer investments and the actions of the investment organizer to invest them in object (objects) of investment and organization of implementation activities that make up the investment project;
- b) Annex to an agreement concluded in writing by drawing up one document signed by the parties, description practical actions (measures) for investment;
- c) The variety of possible forms of remuneration for the organizer investment: percentage of invested or transferred for investment investments; payment specified as a lump sum; the

share in the right ownership of the result of the implementation of the investment project; transfer of other property to ownership or use.

The research in this chapter allows us to formulate the following conclusions. Solution of the problem of qualification of the concept "investment contract" is seen in the construction of an investment organization contract as an independent type of contract. The need for it, legislative consolidation is confirmed by the pattern of development this agreement from a mixed contract to a new contractual form. Under the agreement for the organization of investment, one party (investor) undertakes to transfer the investment to the other party (investment organizer), and the organizer of the investment undertakes on its own behalf, in the interests of investor and for a fee to make legal and actual actions to implement an investment project, i.e. complex measures for investing in the investment object (objects).

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