

**MATTERS OF LEGAL SUPPORT
OF ESTABLISHMENT AND OPERATION
OF SPECIAL ECONOMIC ZONES IN RUSSIA**

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Key words and phrases: effective zone operation; legal support; mechanism of zone establishment; special economic zone.

Abstract: The paper studies the legal restrictions which occur in the course of the establishment and operation of special economic zones. It is found out that the drawbacks of the legislation can prevent their effective development. The views of different scientists and experts are presented. It is proposed to improve the legislation in this field.

In present-day Russian Federation the problems relating to the attraction of the investments, stimulation of the regions and employment can be solved with the help of a new market tool such as the establishment and operation of special economic zones (**SEZ**).

In Russia at the beginning of 2010 there were 13 special economic zones of three types: two zones of industrial-manufacturing type, four zones of technical innovative type and seven zones of tourist recreational type. Three zones of the fourth type, i.e. harbor economic zones are under their development.

The efficiency of zone functioning depends on how well the mechanism of their establishment and operation is developed. Apparently, the necessary prerequisite for such a mechanism is the legal support.

In Russian Federation the operation of economic zones is regulated by a special legislation. It includes more than 50 legal norms. The main documents are: Federal Law of RF of July 22, 2005 No. 116-FZ “About special economic zones in Russian Federation”, Federal Law of June 3, 2006 No. 76-FZ “About alterations in Federal law “About special economic zones in Russian Federation” and recently issued the Federal law of RF of December 25, 2009 No. 340-FZ “About alterations in the Federal law “About special economic zones in Russian Federation”.

The issue of these and other legislative documents ceased the existence of several zones functioning before 2005 and defined the notion “special economic zone” as well as the procedures of establishment and operation of the economic zones on the territory of Russian Federation.

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The positive effect of these legislative norms and acts was the formation of the mechanism of establishment and operation of these zones.

In addition, the legislation introduced a number of restrictions on economic zones operation. Let's look into them in detail:

1) the area of industrial manufacturing zones mustn't exceed 20 km², while the area of technical innovative zones must be limited to 3–4 km²;

2) special economic zones (with the exception of tourist recreational type) mustn't occupy several municipal districts and mustn't cover the territory of some administrative unit in total;

3) it is prohibited to mine and process natural mineral resources, establish metal production and processing of metal scrap, manufacture and process goods subject to licensing except automobiles and motorcycles. The Government of Russian Federation has the right to determine and give the permission to setup other forms of activities on the territory of special economic zone;

4) special economic zone (with the exception of tourist recreational type) can be established only on the land which is either the national or municipal property. Land plots are given in temporary possession only on leasehold basis. The lease arrangement is effective through the whole period of zone functioning but in case of early termination of the activity by the zone participant (due to some reasons) it ceases to be effective. Lease payment for the given plots is determined by the government regulation.

The land plots leases do not have the right to sublease the land and bear lease interest as the contribution to the charter capital of the company. But the leases of the land plots being the owners of the real property have the right for redemption of the land plots on which the property is built;

5) on the territory of special economic zones (except the ones of tourist recreational type) it is not allowed to allocate housing stock;

6) the duration of the special economic zone is fixed to 20 years and without subject to any prolongation. Early termination of zone functioning is possible in the following conditions:

- it is caused by the issues of the defense capacity of the country and nation security, people's life and health protection, natural and cultural property protection;

- for the three years from the date of zone registration not a single contract about the related activity had been made or the previously made arrangements have been terminated;

- for the three years in arrow the residents of the zone do not practice the authorized activities;

7) the decision on the establishment of the special economic zone is made by the Government of RF following the results of the competitive tender and is documented with the appropriate resolution. The bidder for the purpose of the zone establishment forwards the application together with the necessary documents to the government. The selection of applications is competition-based and requires a special procedure. If the decision on the zone establishment is taken the Government of Russia, the Supreme executive branch of the government of federal subject and the executive administrative body of the municipal district where the zone is located make an agreement;

8) the investments in an industrial manufacturing zone must be not less than 10 mln euro, for the first year they must be not less than 1 mln euro.

The above-mentioned constraints can possibly prevent the establishment of the special economic zones and stop their development.

The prohibition of the establishment of a special economic zone on the territory of several municipal districts can be crucial for the zone functioning [6].

The restriction on the allocation of housing stock for the participants of the industrial manufacturing and technical innovative zones is not reasonable enough if the social and industrial issues are dealt in total. It is difficult to imagine the territory of 20 square kilometers without any housing dwellings. The residents of the zone are deprived of the right to build the housing stock for their employees in order to improve their living conditions or save time and transport expenses [7].

The existing restrictions in the legislation do not limit the operation of the tourist recreational zones.

Lack of territorial restrictions can lead to some problems in zone management, in particular zones which are located in several federal subjects with different financial opportunities, objectives, infrastructure and the degree of attractiveness.

Some experts believe [7], that legal norms and acts are do not define precisely the participant of industrial manufacturing zone. Foreign commercial organizations (non-residents of RF) cannot be the residents of the zone in accordance with the existing laws.

There are some drawbacks in the procedure of decision-making about the necessity of the special economic zone establishment. As an exceptional case the Government of RF can make a decision on the special economic zone establishment without holding any competitive tender [1].

Some authors [6] believe that the total of the drawbacks can lead to the unjustified decisions on the approval of some special economic zones as winners of the competitive tender:

- the existing laws do not take into account that special economic zones are located in the regions which have different geographic position and as a result different transport expenses;
- the weight coefficients applied in the procedure of selecting the applications are chosen by expertise and cannot be always justified;
- the focus is made on the minimization of the federal budget expenses in the course of the infrastructure development of a special economic zone.

As a result, the flow of foreign and domestic investments into special economic zones can be slowed down. The principle of the equal contribution of the federal government and the regions in the co-financing of the zone infrastructure development is applied [4]. This principle is based on the ratio between their expenses spent on the development of the infrastructure of the industrial manufacturing special economic zone which is 1:1, and the funding of federal budget for technical innovative special economic zones accounts for 50–70 % from the estimated expenditure on the infrastructure financing (approximately 2.5 billion rubles per each special economic zone). Thus, in order to win the bid in the federal competitive tender and establish a special economic zone on its territory the region has to possess a significant financial potential. This scheme is suitable only for well-developed regions. Although one of the most important objectives for the development of free economic zones worldwide is to provide support to the regions with insufficient financing.

Foreign investors prefer to invest money in the zones with a well-developed infrastructure and it is no use counting on their financial help.

To sum up, legal support of the establishment and operation of special economic zones needs reviewing. The changes must be made with reference to the interests of the regions and municipal districts which cover the territories of zones, residents' interests working on the territory of these zones and improvement of the efficiency of the special economic zones operation.

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Проблемы правового обеспечения механизма создания и функционирования особых экономических зон в России

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Ключевые слова и фразы: механизм создания зоны; особая экономическая зона; правовое обеспечение; эффективное функционирование зоны.

Аннотация: Рассматриваются ограничения правового характера, которые возникают при создании и функционировании особых экономических зон. Определяется, каким образом недостатки законодательства могут помешать их эффективному развитию. Обобщаются мнения различных теоретиков и практиков по этому поводу. Предлагается совершенствовать законодательство в этой сфере.

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