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**TOPICAL ISSUES OF THE CREATION
AND DEVELOPMENT OF SPECIAL ECONOMIC ZONES**

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Introduction: *the authors state that creation of areas with special economic status is actually an experiment aimed at achieving a socio-economic impact. On June 9, 2016, the President of the Russian Federation Vladimir Putin gave instructions to the Government of the Russian Federation to suspend the creation of new special economic zones and to cease the work of a number of inefficient areas. By October 2016 the Ministry of Economic Development is to prepare a report on special economic zones functioning and proposals on the elimination of inefficient SEZ. Owing to the current economic and financial situation in Russia, it is planned to reduce the debt burden of the federal and regional budgets through the elimination of such zones in regions. **Purpose:** to examine the process of the creation and functioning of special economic zones in Russia and abroad. The authors focus on socio-economic and political processes taking place in the economic field and related to the formation and liquidation of special economic zones in Russia. **Methods:** analysis of socio-economic and political processes, general scientific methods of cognition, logical and historical methods of research are used. **Results:** a comprehensive study has led to the conclusion that relations in the sphere of legal regulation of areas with special economic status cannot be regarded as private-legal relations. These are only public-legal relations with a temporary change in the rules of economic activity. They are not specific public legal relations, as within the given experiment it is possible to change general rules*

of customs and currency regulations. The authors have also researched foreign laws and analyzed functioning of special economic zones in Russia and abroad. **Conclusions:** on the basis of the practice of establishment and operation of foreign special economic zones, the authors emphasize that the most appropriate instrument for the implementation of foreign economic experiments is the institution of special economic zones. Such experiments help to verify the feasibility and effectiveness of changes in foreign economic policy through the creation of legal means of artificial changes in the conditions for foreign economic activity.

Keywords: foreign economic activity; relations in the sphere of legal regulation of territories with special economic status; experiment; method of experiment; symbiosis of law and economics; public policy; foreign economic relations; entrepreneurship

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АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЗДАНИЯ И РАЗВИТИЯ ОСОБЫХ ЭКОНОМИЧЕСКИХ ЗОН

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Введение: Президент России В. В. Путин 9 июня 2016 г. отдал поручение Правительству РФ приостановить создание новых особых экономических зон (ОЭЗ) и прекратить работу ряда неэффективных зон. Министерство экономического развития к октябрю 2016 г. должно подготовить доклад об эффективности функционирования ОЭЗ и предложения по ликвидации неэффективных ОЭЗ. В связи с осложнившейся в России экономической и финансовой ситуацией путем ликвидации таких зон планируется снизить уровень долговой нагрузки федерального и регионального бюджетов. **Цель:** рассмотреть процесс создания и функционирования особых экономических зон в России и за рубежом. В фокусе изучения авторов – социально-экономические и политические процессы, протекающие в экономическом пространстве, связанные с созданием и ликвидацией ОЭЗ в России. **Методы:** анализ политико-экономических и социальных процессов; общенаучные методы познания, а также логические и исторические методы научного исследования. **Результаты:** комплексное исследование позволило заклю-

чить, что отношения в сфере правового регулирования территорий с особым экономическим статусом не могут быть отнесены ни к частноправовым – это исключительно публично-правовые отношения по временному изменению правил ведения экономической деятельности, ни к каким-то отдельным публично-правовым отношениям, поскольку в рамках эксперимента возможно изменение общих правил как таможенного, так и валютного регулирования. В ходе исследования проведен анализ функционирования особых экономических зон в России и за рубежом. **Выводы:** исходя из практики создания и функционирования иностранных особых экономических зон авторы акцентируют внимание на том, что наиболее подходящим инструментом для осуществления внешнеэкономических экспериментов является институт особых экономических зон. Такие эксперименты позволяют опытным путем проверить, насколько целесообразны и эффективны изменения во внешнеэкономической политике, посредством создания правовыми средствами иных особых условий осуществления внешнеэкономической деятельности.

Ключевые слова: внешнеэкономическая деятельность; отношения в сфере правового регулирования территорий с особым экономическим статусом; эксперимент; прием эксперимента; симбиоз права и экономики; государственная политика; внешнеэкономические отношения; предпринимательство

Introduction

The relationships in the sphere of legal regulation of the territories with a special economic status were included into the subject of external economic law of Russia only in the end of the XX century.

The first legal acts on the creation of such territories were adopted in 1990-1991¹. During 1990–1995, the regulation of these territories was subject to bylaws and Articles 41–42 of the RSFSR Law No.1545-1 of 4 July 1991 “On Foreign Investments in the RSFSR”². During 1996 – 2004, the regulation was subject to federal laws adopted in regard to separate zones³. Later, Fed-

eral Law No.116-FZ of 22 July 2005 “On Special Economic Zones in the Russian Federation” was passed⁴. Pursuant to Article 40 of the Law, all previously created free economic zones and special economic zones ceased to exist when the Law came into force, the exception being special economic zones in the Kaliningradskaya and Magadanskaya oblasts. The name of the corresponding territories has also been changed to “special economic zones” (SEZs).

Since Russia has insufficient experience in developing SEZs, it is worth looking at the experience of other countries. Thus, the People’s Republic of China created a zone of free trade in the port of Yangshan, which was used as an experimental site to improve its foreign economic strategy. This zone of free trade had a simplified tax regime and a sector of services (including the banking ones) for foreign investors, and at the same time there was a transition to free conversion of the yuan (RMB) within this zone. Analysts rightly call this zone as a zone of economic experiment [8]. For the last ten years, China has been conducting a series of consistent reforms contributing to better assessment of possibilities and practicability of developing different methods and techniques of similar reforms but within the whole country. If such experimental zones had been created in the 1980s in the USSR, the collapse of the USSR and the transition of our country to the market economy might have gone more smoothly without such

¹ *On the Creation of Zones of Free Entrepreneurship:* Ruling of the Supreme Council of the RSFSR of 14 July 1990// *Vedomosti SND RSFSR i VS RSFSR.* 1990. No.7, Art.107; *On Economic and Legal Status of the Free Economic Zone in Zelenograd:* Ruling of the Chairman of the Supreme Council of the RSFSR of 21 May 1991// *Vedomosti SND RSFSR i VS RSFSR.* 1991. No.21, Art.766; *On Economic and Legal Status of the Free Economic Zone in the Kaliningradskaya Oblast:* Ruling of the Chairman of the Supreme Council of the RSFSR of 3 June 1991// *Vedomosti SND RSFSR i VS RSFSR.* 1991. No.23, Art.803.

² *On Foreign Investments in the RSFSR:* RSFSR Law No.1545-1 of 4 July 1991 // *Vedomosti SND RSFSR i VS RSFSR.* 1991. No.29, Art.1008.

³ *On the Special Economic Zone in the Kaliningradskaya Oblast:* Federal Law No.13-FZ of 22 January 1996// *Collection of Legislations of the Russian Federation.* 1996. No.4, Art.224; *On the Centre of International Business “Ingushetiia”:* Federal Law No.16-FZ of 30 January 1996 // *Rus.Gazeta.* 1996. No.22; *On Special Economic Zone in the Magadanskaya Oblast:* Federal Law No.104-FZ of 31 May 1999 // *Rus.Gazeta.* 1999. No.1999.

⁴ *On Special Economic Zones in the Russian Federation:* Federal Law No.116-FZ of 22 July 2005// *Collection of Legislations of the Rus.Federation.* 2005. No.30, p.2, Art.3127.

disastrous social and economic consequences. It is evident that Russia has quite a narrow understanding of the role of such territories with a special economic status in foreign economic relations. The Russian legislator ignores a whole range of possibilities that these zones can offer and still treats them as a relatively safe and massive means of attracting foreign investments. The vector of the Russian legislation impact looks into the future but Russia does not try to make our state institutes and national economy ready for the future. In our view, it prevents Russia from elaborating a foreign economic strategy of the country and forming statutory concepts. At present, the Russian strategy is based on “consuming” resources rather than searching for new sources of growth and smooth reforms. The experience of China shows that even the biggest economies of the world cannot develop without a thoroughly elaborated foreign economic strategy aimed at the empirically calculated development of the state. Certainly, SEZs are a fertile field for empirical testing of the efficiency of economic reforms; however, as Richard A. Posner rightly mentions the law is quite conservative and suspicious to any innovations; historically it has been focused on well-established rituals and archaic terminology [6, p.573], therefore, the law develops slower than the relations developing in the society [6, p.584].

Our country has traditionally been establishing such territories with the purpose to attract foreign and internal investments and to increase the turnover of commodities in a separate part of the country. We consider that it is a very narrow interpretation of the potential of this institute. The creation of such territories is an experiment aimed at achieving social and economic effect through a change of the conditions of legal regulation of some public relationships; and the Russian law has at its disposal one of the most powerful means of conducting a foreign economic experiment – the institute of creating territories with a special economic status.

1. The concept and classification of special economic zones

1.1. The concept of SEZs and purposes of their creation

At present, the Russian economy is undergoing quite a difficult period, caused by, *inter alia*, sanctions imposed by the USA and Western countries against Russia. Therefore, it is evident that we

should look for possible ways of reforming it. Thus, the Address of the RF President to the Federal Assembly on 3 December 2015 clearly stated that “...only by changing the structure of economy, we will be able to solve large-scale tasks in the sphere of security and social development, to create new workplaces as well as to improve the quality and living standards of millions of our people...”¹. For the implementation of the said tasks we should take comprehensive measures (both economic and legal), and the attraction of investments for reforming the economy, including by means of creating and developing SEZs, may be one of the ways.

As it was said above, the attraction of investments is one of the most well-known means of the economic growth of the region. Therefore, the question of how to attract investments is still an open question. The EU countries apply different approaches to attract foreign investments. For example, France which is a major scientific centre with good infrastructure is focused at developing new technologies for its own purposes but by applying additional foreign scientific resources. Ireland considers investments as a means of restoration and growth of its national economy. The strategies to attract investments in these countries are closely connected with the setting of goals: France needs resources for its scientific purposes, Ireland - for its commercial purposes. In other words, the French way is the most suitable for economically, scientifically and technically advanced countries while the Irish strategy is more suitable for countries with a problematic, developing or transitional economy [4, p.71].

Again, the creation of SEZs is an efficient means of attracting investments in the economy of different regions. In accordance with the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto, 1973), a free zone (or a franc zone) is a part of the territory of the country where goods are considered as the objects beyond the national customs territory (the principle of customs extraterritoriality) and, therefore, they are not subject to ordinary customs control and taxation².

¹ The Address of the RF President to the Federal Assembly [electronic source]. URL: <http://www.kremlin.ru/events/president/news/50864> (accessed on 23 May 2016).

² International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto, 18.05.1973) (Protocol edited on 26 June 1999) [Elec-

A similar rule is stated in p.1 of Article 1 of the Agreement on Issues of Free (Special, Specific) Economic Zones in the Customs Territory of the Customs Union and of the Customs Procedure of the Free Customs Zone (Saint-Petersburg, 2010): “A free (special, specific) economic zone (SEZs) is the part of the territory of the Customs Union member-country within the limits specified by the legislation of the Customs Union member-country where special (specific, legal) order of business and any other activity operates, as well as free customs zone’s procedure may be used”¹.

Pursuant to Article 2 of Federal Law No.116-FZ of 22 July 2005 “On Special Economic Zones in the Russian Federation”², a SEZ is a part of the territory of the Russian Federation which is determined by the RF Government and where a special order of business and any other activity operates, as well as free customs zone’s procedure may be used.

From the mentioned above, a SEZ is a part of the territory of a country with a special regime for domestic and foreign business. The legislation concerning this regime and regulating the activities of economic entities in the free economic zone encompasses such matters as customs regulation, taxation, administrative regime, property relations, and guarantees to the investors’ rights. Labour and social legislation also has some peculiarities in the SEZs. Regardless of the type of the free economic zone, this phenomenon can be described as the creation of an economic oasis in some part of the territory where there is a duty-free or privileged regime of importing and exporting goods and services, tax benefits, simplified administrative procedures and favourable conditions for foreign investments.

tronic resource]. Accessed from the reference system of laws “ConsultantPlus”.

¹ *Agreements on Issues of Free (Special, Specific) Economic Zones in the Customs Territory of the Customs Union and of the Customs Procedure of the Free Customs Zone (Saint-Petersburg, 18 June 2010)* [Electronic resource]. Accessed from the reference system of laws “ConsultantPlus”.

² *On Special Economic Zones in the Russian Federation: Federal Law No.116-FZ of 22 July 2005*// Collection of Legislations of the Russian Federation. 2005. No.30, p.2, Art.3127.

1.2. Classification of SEZs

By the data of the International Labour Organization, in the world there are more than 3500 special economic zones of different types: duty-free zones and free ports, zones of free entrepreneurship, off-shore zones, technopolis, and others³. Therefore, it is logical to consider different types of SEZs following the definition of FIAS⁴.

Zones of free trade (or commercial free zones) are specially allocated territories with duty-free conditions of trade, which provide facilities for stacking, storage and transportation for trading, logistics and re-export operations.

Export production zones are industrial zones designed primarily for the production of goods for the outer market. As a rule, such zones have a general zone – open for all types of import-substituting and export-oriented industries, and a specially allocated zone of the production of export goods where there are only export-oriented enterprises.

Zones of entrepreneurship are meant to revive problematic city or rural areas by providing tax benefits and financial grants.

Free ports usually occupy a large territory allowing all types of activities, including tourism and retail trade. They provide for a possibility to live on their territory and give a wider range of benefits and preferences than any other zones. The scheme of FEZs on the basis of a separate production implies the creation of a number of incentives for different enterprises regardless of their location; plants are not expected to be situated in the certain territory to have the right to receive benefits and preferences. This scheme of FEZs is similar to schemes of customs production warehouses, but it offers a wider range of benefits and a more flexible management.

Specialized zones include scientific (technical) parks, petrochemical zones, logistics parks, zones on the basis of the airport, etc.

The main aim of creating SEZs in the RF is still to attract foreign investments, therefore, many scholars regard the regulation of such relations as the regulation of international

³ *Boyenge, ILO Database on Export Processing Zones (revised)* (ILO, 2007).

⁴ *Special Economic Zones Performance, Lessons Learned, and Implications for Zone Development*. April, 2008. URL: <http://www.fias.net> (accessed on 23.05.2016).

investment relations. Article 3 of Federal Law No.116-FZ of 22 July 2005 “On Special Economic Zones in the Russian Federation” states that SEZs are created with the purpose to develop processing industries, high-tech industries, production of new types of goods, transport infrastructure as well as tourism and the sanatorium and resort sphere. If to compare these aims and their types (Art.4 of the Law), it will be evident that each type of a zone has a certain aim, i.e. Russia accepts the creation of four types of special economic zones: industrial and manufacturing; technological and innovative; touristic and recreational; and port special economic zones.

2. Free Economic Zone in the territory of the Republic of Crimea and in the City of Federal Significance - Sevastopol

2.1. History of creating free economic zones in the Crimea and Sevastopol

Before speaking about peculiarities of FEZs in the territory of the Republic of Crimea and the city of federal significance – Sevastopol and the peculiarities of their legal regulation, it is necessary to outline the experience of the Ukrainian government in creating free economic zones in the territory of the Republic of Crimea.

The idea to create free economic zones was borrowed by Ukraine from Russia when, in the beginning of the 1990s, a group of Soviet economists suggested applying a new economic model of the development of the Soviet society. The work on the creation of FEZs in Sevastopol was begun in the spring of 1992. During 1993 – 1994, the concept was constantly improved. In 1994, the City Council by its decision established the Committee of the City Development in the Sevastopol Executive Committee. The transition to the market economy was difficult. At that time, very few people understood the basics of economy, and such words as “privatization”, “restructurisation”, “destatization” and other economic and financial terms sounded familiar only to a limited number of state officials. The final, eleventh, draft of the FEZ project in Sevastopol was completed in March of 1995. The Presidium of the Supreme Council considered and approved it, and strongly recommended that within a month it was to be considered by relevant committees and then presented to the Supreme Council of Ukraine for consideration. In the history of Ukraine, it was the first draft of the law on FEZs

which was thoroughly prepared and which went through all the stages of consideration by all branches of power; however, it was rejected by the deputies of the Sevastopol City Council.

In 2000, the deputies of the Sevastopol City Council passed the decision to create a free economic zone in Sevastopol, but time was wasted. Ukraine introduced a moratorium on the creation of FEZs.

The situation changed on 18 March 2014, when the people of the Crimea expressed their will at the referendum, and the Crimean peninsula became part of the Russian Federation. As a result, some agreements and corresponding laws were signed and passed. It was the beginning of integrating the peninsula into the Russian legal space. As it was mentioned by the Russian Prime Minister D.Medvedev in the mid-March of 2014, “...we should create a legitimate financial and economic instrument to develop the Crimea and Sevastopol. We should prepare rules enabling companies which pay taxes in the Crimea and are now under the Russian jurisdiction to be exempt from paying taxes in the transition period”¹. The Russian government was expected to provide proposals on the creation of a special economic zone in the territory of the Crimea and Sevastopol before 15 April 2014. It was planned that it would be similar to the FEZ in the Kaliningradskaya oblast, residents of which were exempt from paying taxes on profit and property during the first six years; the procedure of obligatory sale of hard currency proceeds was not applied to them either. To establish a special economic zone in the Crimea it was necessary to pass a separate law which would offer tax benefits to major investors coming to the region. The duration of special conditions in the special economic zones in the Crimea must not exceed 49 years.

2.2. Current development of the free economic zone in the territory of the Crimea and the city of federal significance – Sevastopol.

The analysis of gaps in the legal regulation.

While creating the SEZ in the territory of the Crimea and Sevastopol, the Russian government confronted a big number of social, legal and economic problems; therefore, the state interference was the only way to solve the problem. Here, we would like to make a difference

¹ URL: <http://www.rbc.ru/economics/28/03/2014/-57041a369a794761c0ce8661> (accessed on 06.06.2016).

between freedom of entrepreneurship and state interference: the state often provides finances to different projects [5]. Moreover, interference of the state into entrepreneurship may be necessary with the purpose to provide national security and economic development of Russia (a similar principle is applied by the USA, including in its foreign economic affairs) [2, p.144].

One of the first measures to support the region was the creation of the Ministry on the Affairs of the Crimea on 31 March 2014. Its main aims were to integrate the region into the legal space of Russia, develop economy and attract investments. To solve such issues, the RF government elaborated a federal special-purpose programme “Social and Economic Development of the Republic of Crimea and the city of Sevastopol till 2020”, which was approved by the RF Government Ruling No.790 on 11 August 2014. One of its main provisions was the creation of the FEZ in these territories.

To facilitate the integration process of all branches and spheres of economy of the peninsula, their investment potential was thoroughly studied and analyzed. It is necessary to understand that investment attractiveness of the region for each potential investor is a rather subjective assessment of its possibilities and risks, strengths and weaknesses of a certain project. As a result, most efforts to characterize the investment climate of a region are reduced to a comprehensive description of a set of factors which can be classified in the following way:

- factors determining the economic potential of the region, i.e. the availability of resources in the region (including energy resources, availability of free lands); the potential of natural resources (including the climate conditions); the staff potential; the infrastructure (including the construction engineering complex, export possibilities); the volume of local markets; diversification of the economy; parameters of the local budget and availability of non-budget sources of financing projects; the level of banking services and the cost of financial resources necessary for investments;

- political and social factors, i.e. the level of the population trust to the local government; relationships between regional and federal authorities; corruption and the level of crime; the living standard (the population health, the size of salaries); the character of inter-national and inter-confessional relations.

2.3. The economic potential of the region

From 2010 to 2013, on average 10% of the investments in the major capital of Russia came from the finances of the federal budget and 7.7% from the budgets of the RF constituent entities. However, the investment attractiveness of the Crimean Federal District for foreign investors is quite high: the parameter of foreign direct investments (FDI) is, on average, 6% in relation to the level of Russia. In 2013, the FDI parameter per capita in the Republic of Crimea (\$747) was four times higher than the Russian parameter (\$182), and it was between the parameter of Moscow (\$854.7) and the Kaluzhskaya oblast (\$668). In 2013, the FDI parameter per capita in Sevastopol was \$409, and it was close to the level of the Tulskaia oblast (\$433.5). It proves the availability of a high investment potential in the territory of the Crimean Federal District; it demonstrates that the active state policy to attract investments and develop the infrastructure of the district is quite efficient.

Indisputably, if the state considers international economic activities as its priorities, it undertakes all the necessary measures to make the activities correspond to them [7, p.5]. Thus, the improvement of the infrastructure of touristic objects by the state is also a priority purpose of the federal target programme (FTP) of developing the Republic of Crimea and Sevastopol. The finances allocated by the FTP will be directed at supporting five touristic clusters of Sevastopol: “The City of Two Defenses” (military and patriotic tourism), “Crossroads of Cultures” (culture learning tourism), “The Green Necklace” (ecological tourism), “The Sevastopol Harbour” (yacht and cruise), and “The Kaleidoscope of History” (children’s and youth tourism). Within the framework of the FTP from 2015 to 2020, Sevastopol will receive 11.4 billion roubles to improve its touristic infrastructure. In 2015, the federal budget already provided 190 million roubles, and the Sevastopol government determined its priority objects which were financed in the first way: the Historical Boulevard, the Malakhov Kurgan, the Sapun Mountain, Maksimov’s Datcha, territories in the vicinity of the museum complex “Balaklava”, the Vladimir Temple, the Michael’s Battery, the monastery complexes in Inkerman and on Fiolent.

By the express estimation of the investment attractiveness of the Republic of Crimea (without Sevastopol) conducted by "Expert RA" agency in 2014, the Region is included into the category of regions with reduced potential and moderate level of risks for private entrepreneurs. By the rating methods, the potential demonstrates what share the region occupies in the all-Russian market, and the risk shows how big might be the problems that the investor can face in the region.

Despite that fact, the Crimea has successfully been implementing several investment projects in different spheres of economy. The nature and climate of the Crimea considerably contribute to the development of hotel and sanatorium-resort branch on the peninsula. This sphere is especially attractive for investments. Numerous successful projects are implemented in the sphere of construction, which is closely connected with the development of tourism, as well as in the agricultural and industrial spheres.

An integral part of any entrepreneurial activities are commercial (entrepreneurial) risks. V.A.Ojgenzikht says that a risk is "a psychological attitude of subjects to the results of their own actions or to the behavior of other people, and also to a possible result of the objective case and incidentally impossible actions, which is expressed in the conscious acceptance of negative, including irreparable, property relations" [1, p.67]. The most important peculiarity of entrepreneurial risks is their non-commercial nature. Thus, R.Bradgate and N.Savage distinguish several types of risks in the sphere of commodity turnover: physical, commercial, legal and political [3, pp.477-479].

Most investment risks of the Crimean macroregion are accounted for by its disadvantages. The FTP differentiates the following advantages and disadvantages of the Crimean Federal District.

Its disadvantages include: unstable political and social environment in the border regions of Ukraine; risks in the sphere of international cooperation, weakened international and foreign economic relations, including with border regions of Ukraine; unequal allocation of natural and resource potential, as well as manufacturing, touristic and recreational, transit and transport, labour and social potential of these territories; considerable disproportions in the level and quality of life of the population; limited competitiveness of the industrial complex oriented at advantages of the export and raw materials

sphere, the monopoly position in local markets, advantages of households and the popular recreational sector, high demand in resources by most technologies, etc. Competitive advantages of the macroregion include: institutional, resource and financial support of the region due to its integration into the Russian Federation; perspectives of considerable development of interregional production and cooperation relations with the subjects of the Russian Federation; a strategically important and perspective geographical and geopolitical position; the transport and transit potential; the touristic potential, comfortable climate conditions for recreation and treatment, the available infrastructure; human resources (availability of qualified personnel and scientific, educational and scientific production establishments at the national and international levels).

That was the situation when the Crimea became part of Russia. In this connection, it is necessary to describe some most typical sources of risks existing now:

1. For those who produce goods for export it is important to have transport communication with the continental part of Russia and risks can appear if the Kerch crossing construction is delayed. On the whole, there is a risk which depends on the quality how successfully the infrastructure projects are made.

2. For the touristic sphere, there is a risk which is connected with short periods of time during which it is necessary to create a positive image of the region. The most serious problem is the provision of fresh water to the Crimean Federal District. For investments in real estate objects, there is a risk that the market is constantly changing and there is a big demand in them, making prices higher; therefore, much depends on the experience of investors.

3. Potentially risky are organizations with a high share of foreign capital which, under such difficult economic conditions, can act against the Russian legislation and deliberately ruin the existing economic relations.

4. An additional factor of risk is the policy of the Central Bank: more expensive credit resources against the background of the weakened rouble contradict the aims of the state to develop the economy of the country.

5. Corruption in Russia, often systematic, is a threat to any sphere of life. In the rating of assessing corruption (which has been conducted since

1995), Russia always occupies the lowest places. It proves that Russia has a high level of corruption and inefficient means to combat it.

Risks connected with corruption are assessed as the risks undermining the state sovereignty of Russia. Therefore, they can make any private risks critically dangerous.

In this sense, investment processes in the territory of the Crimean Federal District are aimed at elaborating a healthy investment mechanism, free of corruption. First of all, it can be contributed to by the political will of the leaders of the country. Weaknesses in the development of the Crimean Federal District and any investment risks connected with them will give the state positive experience, to be further translated into the territories of other constituent entities.

We cannot but mention that since the reunification of the Crimea and Russia much is done to integrate the Republic of Crimea and the city of federal significance – Sevastopol in the Russian legal space. Nowadays, there are legal conditions to adjust all spheres of economy of the Crimean Federal District (CFD) and its social sphere to the legal system of Russia. For that purpose, Russia has passed 8 federal constitutional laws, 32 federal laws and more than 600 bylaws.

One of the first decisions, and quite logical, was the decision to create a free economic zone in Sevastopol. In our view, it has successfully combined the task to attract investments (i.e. the economic element) and to provide the political image of the Crimea by the Russian authorities. In other words, that was the decision for the image of the region, alongside with the introduction of three state languages.

Describing measures on the creation of the FEZ in the Crimea, we should remember that its main purpose was the recovery of the economy and attraction of investments. It is a well-known fact that the inclusion of the Republic of Crimea in Russia was a formal pretext to impose sanctions against Russia, which were used as an instrument of pressure with the purpose to slow down the pace of economic development, with further destruction or long-term stagnation of the Russian economy.

On 29 November 2014, Federal Law No.377-FZ “On the Development of the Crimean Federal District and of a Free Economic Zone in the Territories of the Republic of Crimea and the City of Federal Significance – Sevastopol” (further FZ

No.377) was adopted. This economic zone will operate during 25 years.

The provisions of the Law significantly simplify the visa regime, decrease taxes on profit and contributions to social funds and, in some cases, customs duties for the residents of the FEZ are zero. From the viewpoint of tax preferences, this zone is the most attractive from all Russian zones. There is a special order of conducting entrepreneurial and any other type of activities and a special customs procedure (regime) of the free economic zone. This special regime (Art.15 of Federal Law No.377-FZ) is applied to urban planning and land use when the objects are built for the implementation of different investment projects by the FEZ participants (Art.17 of the Law; which comes into force on 1 January 2017); a special regime of taxation; providing subsidies to compensate for the costs of the FEZ participants, including the costs connected with the customs duties, taxes and levies on the goods (except for excisable goods) which are transported for their further use in the construction, equipment and technical support of objects necessary for the implementation of investment projects.

The customs procedure of the free economic zone is stated by Chapter 5 of Federal Law No.377-FZ. This procedure determines, in particular, the order of conducting customs operations in respect to foreign goods as well as goods from the Customs Union. The regime of the free economic zone will enable the participants of the FEZ to import to the Crimea such goods, spare parts and equipment duty-free which are necessary for the implementation of investment projects.

Besides, the provisions of Federal Law No.377-FZ regulate the order of managing the FEZ: its body of management and its powers, the order of its constitution and work of the expert council.

The procedure of getting the status of the FEZ participant is detailed in Art.13 of Federal Law No.377-FZ. To get such a status, a person must be registered in the territory of the Crimea, registered with the Tax Administration Agency and must have an investment declaration which fully complies with the requirements of the said Law. Requirements to the content of information to be put in the investment declaration are stated in p.3 of the Article. In other words, the status of the FEZ participant can be received only by an economic entity which conducts entrepreneurial activities and implements an investment project. For this purpose, for example, it is not enough just to buy real estate on the peninsula. On the basis

of the written application submitted by the person to the supreme executive body of the state power in the Crimea or Sevastopol, this person (in case of full compliance with all the requirements established by Federal Law No.377-FZ) has to enter into an agreement which regulates the conditions of the activities in the FEZ.

The procedure of entering into the agreement on the conditions of the activities in the FEZ directly depends on the volume of investments to be made. If the investment declaration provides for capital investments in the amount not less than 100 mln.roubles by the FEZ participant, the documents to receive the status of the FEZ participant will be processed within seven days. On the day when the executive body makes its decision, it must send the signed agreement or the motivated refusal to the applicant (p.8). If the volume of capital investments is more than 100 million roubles, the agreement is made upon the consent of the expert council which has the right to make changes into the investment declaration. In this situation the period of approving the agreement will be prolonged up to 22 days (p.9 – 13).

Under p.16, the agreement on the conditions of the activities in the FEZ comes into force on the day of its signing. However, a person obtains the status of the FEZ participant since the date an appropriate record is made in the register of the FEZ participants (p.19). In other words, since the date an appropriate record is made in the register of the FEZ participants, the FEZ participant has the right to apply a special regime (for example, of taxation) in respect to the activities undertaken. The procedure of making an appropriate record in the register of the FEZ participants takes three days since the date the executive body authorized by the RF Government receives a copy of the contract (in Sevastopol, it is the City Department on the Issues of the Free Economic Zone). The fact of making an appropriate record in the register is certified by the issuance of the relevant certificate (p.18).

A person loses the right to apply a special regime when an appropriate record is made in the register that such a person is excluded from the list of the FEZ participants (p.26). The list of grounds for this is stated in p.23.

As a result, the FEZ participant is entitled to apply special regimes in respect to the activities which are provided for by the relevant agreement. Alongside with that, a person can undertake other types of activities, but the right to apply a special regime in respect to such activities is lost by such a person (p.21–22).

The certificate of the FEZ participant will enable its holder to reduce the tax burden (subparagraph 2, p.1 of Art.15 of Federal Law No.377-FZ). The corresponding amendments in the tax legisla-

tion and insurance contributions legislation have been introduced by Federal Law No.378-FZ of 29 November 2014 “On Introducing Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law “On the Development of the Crimean Federal District and the Free Economic Zone in the Territory of the Republic of Crimea and the City of Federal Significance Sevastopol”¹ and Federal Law No.379-FZ of 29 November 2014 “On Introducing Amendments to Part One and Two of the Tax Code of the Russian Federation in Connection with the Adoption of Federal Law “On the Development of the Crimean Federal District and the Free Economic Zone in the Territories of the Republic of Crimea and the City of Federal Significance Sevastopol”².

New provisions have been added into Federal Law No.212-FZ of 24 July 2009 “On Insurance Contributions in the Pension Fund of the Russian Federation, the Fund of Social Insurance of the Russian Federation, the Federal Fund of Obligatory Medical Insurance”³, under which the insured person within 10 years after receiving the FEZ status beginning with the first day of the next month after the month when such a status is received shall apply the following tariffs for insurance contributions: the Pension Fund of Russia – 6%, the Fund of Social Insurance – 1.5%, the Federal Fund of Obligatory Medical Insurance – 0.1%. Consequently, the total volume of contributions into non-budget funds of the FEZ participant will amount to 7.6%, while for the average insured the total volume of contributions is much higher – 30% (into the Pension Fund of Russia – 22%, the Fund of Social Insurance of the Russian Federation – 2.9%, the Federal Fund of Obligatory Medical Insurance - 5.1%).

¹ *On Introducing Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law “On the Development of the Crimean Federal District and the Free Economic Zone in the Territory of the Republic of Crimea and the City of Federal Significance Sevastopol”*: Federal Law No.378-FZ of 29 November 2014 [Electronic resource]. Access from the reference system of “KonsultantPlus”.

² *On Introducing Amendments to Part One and Two of the Tax Code of the Russian Federation in Connection with the Adoption of Federal Law “On the Development of the Crimean Federal District and the Free Economic Zone in the Territories of the Republic of Crimea and the City of Federal Significance Sevastopol”*: Federal Law No.379-FZ of 29 November of 2014 [Electronic resource]. Access from the reference system of “KonsultantPlus”.

³ *On Insurance Contributions in the Pension Fund of the Russian Federation, the Fund of Social Insurance of the Russian Federation, the Federal Fund of Obligatory Medical Insurance*: Federal Law No.212-FZ of 24 July of 2009 [Electronic resource]. Access from the reference system of “KonsultantPlus”.

At the same time, it is important to understand that the reduced tariffs for insurance contributions are applied only in the case when a person becomes the FEZ participant not later than three years since the date of its creation (Part 4 of Art.58.4).

All the above mentioned information illustrates the importance of the steps undertaken by the RF government aimed at making the economic situation in the Crimea more stable.

However, these processes develop not as quickly as it was supposed, and one of the natural reasons for that was the abolition of the Ministry on the Matters of the Crimea, which was the body to perform functions to regulate the special legal regime regulation in the FEZ and, what is more important, the powers to manage the free economic zone. In particular, its powers included the maintenance of the uniform register of the free economic zone participants and the issuance of certificates upon the inclusion of a person into the register of the free economic zone participants. The Ministry was abolished three months later by the decree of the RF President; all its powers were vested upon the Ministry of Economic Development of the RF. At first sight, such a transformation seemed natural under the conditions of optimization of the state bureaucracy; however, the transfer of powers took much time - till the December of 2015. In fact, it almost ceased all investment projects, because potential participants of the FEZ, even without any fear of "the pressure of sanctions", did not have a possibility to register as the FEZ participants because there were no strict legal rules, and what was the most "difficult" was the lack of forms which would confirm the fact of registration of the FEZ participant and give the right to enjoy all the preferences established by the law.

Thus, the legal concept of the creation of the FEZ (with its preferences) in the territories of the Republic of Crimea and the city of federal significance - Sevastopol, elaborated at the federal level, has got bogged down in bureaucratic acrimony and has not been properly elaborated at the local level: for example, there is a lack of "fair game" rules, the investment map, competitive bids of land, "one window", etc. We think that all this will be reflected in the 2017 auditing report by the Accounts Chamber of Russia.

Conclusion

The RF Accounts Chamber has analyzed the results of the inspection of all the activities to see

how efficiently the federal budget, state property and other means were used while SEZs were created and functioning in Russia in 2014-2015. The Chamber has come to the conclusion that a 10-year experience of SEZs shows that these zones have not become an efficient means of supporting the national economy. "The process of creating and managing SEZs is characterized by a high degree of formalism, irresponsibility and impunity, by a lack of executive discipline and responsibility for the decisions and their consequences. The real economic effect of SEZs has not been achieved", said S.Agaptsov, an auditor¹. Such trends can be confirmed by different publications according to which, by the fall of 2016, the RF Government will have closed down some of SEZs on the basis of a list of non-effective territories made by the RF Ministry of Economic Development².

It is not acceptable to consider territories with a special economic status exclusively as an instrument to attract investments, because they are a powerful means to conduct experimental economic reforms for the assessment and elaboration of optimal methods of conducting reforms. Probably, if such experimental zones had been created in the USSR in the 1980s, the collapse of the Soviet Union and the transition to the market economy would have gone more smoothly, without disastrous social and economic consequences. The purpose of the legal experiment is to improve the legal regulation of a separate group of public relations. The legal experiment can be defined as a public method of legal regulation which artificially changes the conditions of development of these or those phenomena, creates new forms of the organization of different processes in life to answer the question whether these or those legal rules are possible to introduce or are worth being introduced. Within foreign economic law, the method of an experiment is to practically check the possibility and efficiency of changes in foreign economic policy by means of legally creating artificial conditions for foreign economic activities.

The above said information illustrates the fact that the Russian legislator ignores a whole variety of possibilities that special economic zones offer and still considers them as a relatively safe and massive means of attracting foreign investments.

¹ URL: http://www.ach.gov.ru/press_center/news/26369 (accessed on 10.05.2016)

² *There are dozens of special economic zones which have no residents at all.* URL: <http://www.kommer-sant.ru/doc/2973156> (accessed on 01.04.2016)

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