

Guide: Construction in Post-Soviet Union Countries

Artyushenko & Partners, Republic of Kazakhstan

Revera Law Firm, Republic of Belarus

Ost Legal, Russian Federation

Kosta Legal, Republic of Uzbekistan

Technocrat Legal LLC, Republic of Armenia

**Guide:
Construction
in Post-Soviet Union Countries**

Almaty 2019

The CIS region is developing into an interesting area for investment in Green Field projects. International financial institutions are ready to invest in post-Soviet countries provided that projects are implemented according to clear rules and standards.

This book for specialists who conducts or wish to conduct construction business in Kazakhstan, Belarus, Uzbekistan, Russia, and Armenia. These countries have the similar approach to construction, thus it could be interesting for practitioners across the CIS region.

From this book you can learn about organization of a general contractor's activities , design/project documentation, regulatory procedures for a construction project, peculiarities of conclusion and performance of a construction contract with a foreign general contractor, recent and forthcoming legal reforms and developments in the construction industry, and how FIDIC works in cooperation with the organization of project financing in the countries of the former USSR.

We hope that this book will be helpful to its target audience and will be useful in achieving their goals in the construction area.

© Artyushenko & Partners Boutique Law Firm, 2019

CONTENTS

INTRODUCTION	4
SECTION 1. THE REPUBLIC OF KAZAKHSTAN	6
SECTION 2. THE REPUBLIC OF BELARUS	57
SECTION 3. THE RUSSIAN FEDERATION	120
SECTION 4. THE REPUBLIC OF UZBEKISTAN	144
SECTION 5. THE REPUBLIC OF ARMENIA	173

Introduction

This Guide is intended for use by practicing lawyers, investors, contractors and managers involved in any way, at different stages, in the construction process in post-Soviet countries, such as Kazakhstan, Belarus, Russia, Uzbekistan and Armenia.

The idea to create the guide was born out of Artyushenko & Partners, a real estate and construction boutique law firm in Kazakhstan. In 2015, Artyushenko & Partners issued the first guide for the Republic of Kazakhstan in the Russian language. In 2019, the firm decided to produce a similar guide in English. For this purpose, its colleagues in neighboring countries were invited. The invitation to participate in the preparation of this guide was accepted by several reputable and well-known professional law firms and practicing experts, including Revera – from Belarus, Ost-Legal – from Russia, Costa Legal – from Uzbekistan, and Technocrat Legal LLC – from Armenia. Artyushenko & Partners is very happy for a chance to work with such wonderful professionals and would like to thank them for their collaboration.

This Guide is divided into 5 sections by countries – the Republic of Kazakhstan, the Republic of Belarus, the Russian Federation, the Republic of Uzbekistan, and the Republic of Armenia. The authors address therein main issues faced by local and foreign entities desiring to work in the construction field in the above post-Soviet countries, such as:

1. Organization of a general contractor's activities;
2. Design/project documentation;
3. Regulatory procedures for a construction project;
4. Peculiarities of conclusion and performance of a construction contract with a foreign general contractor;
5. Recent and forthcoming legal reforms and developments in the construction industry; and
6. FIDIC construction contracts.

In doing so, it refers to relevant laws and procedures regulating the construction process in Kazakhstan, Belarus, Russia, Uzbekistan and Armenia. We hope that this Guide will be helpful to its target audience and will be useful in achieving their goals in the construction area.

Special thanks to Ms. Elvira Khairoullina while working for patience and important comments with this Guide.

Additional information

If you have any questions regarding any matter addressed herein, please feel free to contact the following persons as per below:

Country/ Section	Name	Position	Law Firm	E-.mail
Republic of Kazakhstan	Andrey Artyushenko	Managing Partner	Artyushenko & Partners Boutique Law Firm	aa@a-p.legal
Republic of Belarus	Anna Aniskevich	Attorney-at-law, Head of Construction Sub-practice	Revera Law Firm	ava@revera.by
Russian Federation	Gulnara Nastrutdinova	Senior lawyer	Ost Legal	nastrutdinova@ostlegal.ru
Republic of Uzbekistan	Azizbek Akhmadjonov	Partner	Kosta Legal	aakhmadjonov@kostalegal.com
Republic of Armenia	Karen Arustamyan	Partner	Technocrat Legal LLC	arustamyan.kz@gmail.com

**SECTION 1.
THE REPUBLIC OF KAZAKHSTAN**

THE REPUBLIC OF KAZAKHSTAN

Contents

INTRODUCTION	8
1. ORGANISATION OF GENERAL CONTRACTOR ACTIVITIES IN THE REPUBLIC OF KAZAKHSTAN	8
1.1. Licences and Permits	8
1.2. Access to Electronic Services.....	13
2. DESIGN DOCUMENTATION	14
2.1. Procedure for Development of Design Documentation	15
2.2. Agreement upon Design Documentation.....	17
2.3. Examination of Design Documentation	18
2.4. Approval of Design Documentation	23
3. PROCEDURES PERTAINING TO BUILDING/CONSTRUCTION PROJECTS IN THE REPUBLIC OF KAZAKHSTAN	23
3.1. Notification of Commencement of Construction	24
3.2. Construction Requirements.....	25
3.3. Architectural and Construction Control and Supervision	26
3.4. Architectural Supervision.....	27
3.5. On-Site Supervision	29
3.6. Authorities and Peculiarities of Work of Engineer	31
3.7. Equity Participation in Housing Construction	35
3.8. Completion of Construction	40
4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF CONSTRUCTION CONTRACTS WITH NON-RESIDENT GENERAL CONTRACTORS.....	47
5. REFORM OF THE CONSTRUCTION INDUSTRY: CURRENT OUTCOMES AND FORTHCOMING DEVELOPMENTS	51
6. FIDIC CONSTRUCTION CONTRACTS IN THE REPUBLIC OF KAZAKHSTAN.....	53

INTRODUCTION

This Section relates to the Republic of Kazakhstan. It is prepared by the lawyers of Artyushenko & Partners, a boutique law firm (Republic of Kazakhstan, Almaty), Information contained in this Section is a logical continuation of its guide, which the firm has been publishing and updating on its website (www://a-p.legal) for five recent years.

1. ORGANISATION OF GENERAL CONTRACTOR ACTIVITIES IN THE REPUBLIC OF KAZAKHSTAN

1.1. Licences and Permits

In Kazakhstan, the construction or design by a company, whether foreign or local, must be authorised by the state bodies. The authorisation is provided in the form of a licence. The licence is required if the activity planned by the company in Kazakhstan is listed in the relevant legislative acts, regardless of whether the company intends to operate in Kazakhstan permanently or implements a short-term project here.

The Law of the Republic of Kazakhstan “On Permits and Notifications” dated 20 November 2014 contains the list of activities requiring their licensing. The licence and/or an annex thereto can be in electronic form only.

Activities in the construction area to be licensed include:

- survey;
- design; and
- construction and installation works.

In doing so, with regard to the above types of activities, the law determines certain subtypes thereof that need to be licensed. For example, as regards the design, the law specifies over 30 sub-types thereof that are subject to licensing.

Licences are issued by the authorised body in the field of architecture, construction and town planning. To obtain a licence, required documents

must be submitted either directly to Public Corporation “Government for Citizens”, a non-profit JSC (former Public Service Centers) or through the electronic portal – *elicense.kz*.

Licences issued to carry out design and construction and installation works are divided into three categories – Category I, Category II and Category III, depending on the level of responsibility thereunder.

The Rules for Determining the General Procedure for Attributing Buildings and Constructions to Technically and/or Technologically Complex Facilities, issued on 4 May 2015, approved by the Order of the Minister of National Economy of the Republic of Kazakhstan, dated 28 February 2015, No. 165, determine the procedure for attributing buildings and constructions to technically and/or technologically complex facilities and establish criteria for determining the complexity of facilities to be designed.

Due to reforming expert activities through their transfer into competitive environment, as discussed below, a necessity arose to determine criteria for attributing buildings and constructions to technically and/or technologically complex facilities. In this regard, new Rules establish an exact list of technically and/or technologically complex facilities, their complexes, and engineering and transport communications.

New Rules also amended the list of buildings and constructions that are included in Category I, Category II and Category III so as to add or exclude some objects, but the general provisions thereof remained the same as indicated below:

- **Category I** (increased level of complexity) includes unique buildings and hazardous production facilities;
- **Category II** (normal level of complexity) includes construction works not reflected in Category I and allows general contracting and works in seismic conditions; and
- **Category III** (low level of complexity) does not allow constructing capital buildings and structures but allows constructing temporary buildings and structures, and buildings and structures for seasonal or auxiliary purposes.

It should be noted that when choosing the category, a newly established company (usually in the form of a LLP) is eligible to obtain a licence for Category III only.

To be eligible to obtain a licence for Category II or Category I, a potential licensee must be experienced in implementing projects, not necessarily in Kazakhstan.

Even if the founder of a new company is a well-known design or construction company (with a portfolio and list of implemented projects in various countries), previous experience of such design or construction company cannot be recognised as the experience of the new company. Therefore, the only way for a design or construction company (whether resident or non-resident) to use its previous experience (both in Kazakhstan and abroad) in order to obtain a licence is to register its branch or representative office in Kazakhstan. This option is most suitable for a foreign construction and design company deciding to enter Kazakhstani market.

Legislation of the Republic of Kazakhstan establishes an exact list of requirements for each category of licence as follows (see Order of the Acting Minister of National Economy of the Republic of Kazakhstan, dated 9 December 2014, No. 136):

Some issue:

- to obtain a licence of Category I or Category II for design and construction and installation work, the licensee's work experience must be continuous (if the licence terminates, the experience is annulled);
- the applicant is required to have a certified engineer working as a full-time employee and possessing the relevant certificate in respect of a subtype of works which is sought for licensing;
- a licensee, being a legal entity, whose participants (shareholders) are one or more legal entities being residents of the Republic of Kazakhstan and one or more foreign legal entities and in whose charter capital legal entities being residents of the Republic of Kazakhstan own in aggregate 40% or more of the interest/share, and possessing a licence of Category I for design/construction and installation works for Category I, is not required to provide information confirming its experience under earlier works and projects.

The current important qualification requirements can be grouped as requirements for:

- personnel (company staff);
- production base;
- material and technical resources; and
- work experience and implemented projects (except for licence of Category III, to which this requirement does not extend).

It is worth noting that, as a matter of law, an individual in Kazakhstan cannot be licensed for design and construction and installation works.

To obtain a licence for design and construction and installation works, regardless of its category, the licensee needs to have in its personnel at least one certified engineer possessing the relevant certificate in respect of a sub-type of works which is sought for licensing.

In doing so, no work mix by a certified engineer is permitted.

The certification is a procedure for the official recognition by a certification center of the authorities of engineers involved in the design and construction process.

The certification is carried out by accredited certification centers. A certification center is a legal entity that has passed the accreditation procedure with the authorised body in the prescribed manner. The list of certification centers is available on the website of the Ministry of National Economy of the Republic of Kazakhstan. The certification rules and procedures are described in detail in Order of the Minister of National Economy of the Republic of Kazakhstan, dated 26 November 2015, No. 734.

The following are the documents required for certification:

- an application;
- a copy of the identity card of the applicant;
- a notarised copy of the diploma of higher professional education;

- a notarised copy of the employment record book or other documents confirming the work experience; and
- notarised copies of foreign certificates, diplomas and other documents confirming the relevant professional expertise, if any.

The application is considered within fifteen (15) working days.

The certification is carried out by virtue of computer testing. The testing continues 120 minutes. The test consists of 100 questions on the chosen specialisation. Test questions are prepared and approved by the authorised body. The results of certification are approved by an order of the certification center. Information on certified engineers is placed on the official Internet resource of the authorised body.

As mentioned above, engineers are certified by accredited certification centers. The accreditation procedure for non-state centers for certification of engineers involved in the design and construction process was approved by Order of the Minister of National Economy of the Republic of Kazakhstan, dated 26 November 2015, No. 735.

To be accredited, a certification center must submit the following documents:

- an application;
- a certificate of its registration/re-registration as a legal entity; and
- data and documents in accordance with the permissive requirements.

The permissive requirements are established in Annex No. 3 to above Order No. 735. Such requirements include the availability of:

- trainers for advanced training;
- technical staff responsible for conducting certification;
- administrative and amenity rooms owned or otherwise legally possessed, with an area of at least one hundred (100) square meters; in doing so, the area of rooms for testing and training must be at least forty five (45) square meters;

- at least ten (10) seats;
- software for certification of engineers;
- regulations and methodologies for use; and
- test questions, as approved by the authorised body, and the availability of approved internal rules and regulations for training and certification.

The certificate must be issued within fifteen (15) working days.

1.2. Access to Electronic Services

Currently, many services related to real estate are provided in electronic format through electronic government. This allows saving time on administrative procedures at all stages of opening and running a business in Kazakhstan in the field of construction and design.

To have access to electronic services, an electronic digital signature is required, which is issued by State Technical Service, a state enterprise, within one (1) working day. To obtain an electronic digital signature, an application must be submitted either directly to the service provider or through Public Corporation "Government for Citizens", a non-profit JSC.

A foreign electronic digital signature is recognised in accordance with international treaties ratified by the Republic of Kazakhstan. Previously, such treaties existed within the framework of the Customs Union only. Upon entry into force of the Treaty on the Eurasian Economic Union on 1 January 2015, they also exist within the framework of the Eurasian Economic Union.

In the absence of an international treaty, a foreign company must obtain an electronic digital signature in accordance with legislation of the Republic of Kazakhstan. To do so, it is necessary to submit an application and a document indicating the individual identification number (IIN) of the representative of a non-resident legal entity (e.g., a Registration Certificate) and a document containing the BIN of the legal entity. To have a BIN, a legal entity needs to obtain a registration certificate on the grounds specified in the tax legislation of the Republic of Kazakhstan (opening a current account with a local bank can be indicated as such ground).

2. DESIGN DOCUMENTATION

In terms of technical regulation, Kazakhstan is currently in the process of stage-by-stage replacement of its obsolete building codes and regulations with Eurocodes, i.e. European technical standards for the design and construction of buildings and structures. Eurocodes are introduced gradually, in three stages as follows:

- 2010 - 2014 – the preparatory stage;
- 2015 - 2020 – the co-existence of new and existing standards;
- 2021 - 2025 - summarising the experience of applying and amending the new regulatory framework.

In legislation of the Republic of Kazakhstan, the rules identical to Eurocodes are designated as “CH (СП) PK EN” and operate since 1 July 2015 according to Order of the Chairman of the Committee for Construction, Housing and Utilities and Land Management of the Ministry of National Economy of the Republic of Kazakhstan, dated 29 December 2014, No. 156-НҚ “On Approval of a New Regulatory Regime for the Construction Industry”.

To date, over 50 standard technical documents called in Russian CH PK EN, identical to Eurocodes, with national annexes and about 16 additions to national annexes have been developed. Set forth below are some examples thereof:

- CH PK EN 1990:2002+A1:2005/2011 “Basics of Design of Bearing Structures”;
- CH PK EN 1991-1-3:2003/2011 “Effects on Bearing Structures. Part 1-3. General Effects. Snow Loads”;
- CH PK EN 1992-1-2:2004/2011 “Design of Concrete Structures. Part 1-2. General Rules for Determining Fire Resistance.

The main rules for the development, agreement and approval of design documentation, its composition and content were contained in CH PK 1.02-03-2011, which became invalid due to the introduction of a new regulatory regime.

However, pursuant to the responses of the Minister of National Economy of the Republic of Kazakhstan and the Chairman of the Committee for Construction, Housing and Public Utilities and Land Management of the Ministry of National Economy of the Republic of Kazakhstan, dated 29 September 2015, CH PK 1.02-03-2011 “Procedure for the Development, Agreement and Approval of, and Composition of, Design Documentation” **continues to operate** in accordance with Order of the Committee for Construction, Housing and Utilities and Land Management of the Ministry of National Economy of the Republic of Kazakhstan, dated 30 December 2014, No. 172-ҢК “On the Introduction of Amendments to Order of 15 August 2012 No. 411 “On the Introduction of Amendments to Orders of 29 December 2011 No. 536 “On the Approval of Standard Technical Documents in the Field of Architecture, Town Planning and Construction and No. 540 “On the Approval of a Standard Technical Document”.

The developed and approved design documentation is valid within a term of three years from the date of its approval.

Upon expiry of this term, the design documentation is regarded to be outdated and needs to be brought in line with the current state standards and re-approved in the same procedure in which it was approved but subject to technical standards that were changed.

2.1. Procedure for Development of Design Documentation

The design can occur in several stages. The stages are determined in a design task. The first stage is the preparation of design based on the pre-design documentation. The second stage is the preparation of working documentation. A two-stage design is contemplated for the construction of a large housing and public facility or industrial facility, or a significant facility affecting the state or public interests and involving state investments.

A facility with the duration of construction of up to 24 months must be designed in one stage, i.e. without preparation of working documentation. One stage design also extends to the construction of a facility under a standard plan, when an earlier developed individual design is drawn up, and the reconstruction of a facility.

Design is regarded to be commenced on the effective date of the contract for the development of design documentation, entered into between the

employer and employee (e.g., contractor, general designer). The employer must provide to the employee an approved design task and other initial data required to develop the design documentation. The contract for the development of design documentation must contain the types and scope of work and the terms of author supervision, if necessary (otherwise, it must be indicated that the author supervision is not required). Design work, of which the value exceeds 2/3 of the total work, may not be sub-contracted.

At the stage of development of design documentation, the general planning and space and town planning concepts adopted and approved in the general plans of settlements are detailed. The design documentation must contain the concepts and indicators under the master plan (subject to zoning).

If the developed design documentation reasonably goes beyond, or deviates from, the state standards, including the master plan, written approvals by authorities that approved these standards will be required (in case of master plan, local representative bodies are such authorities). Before submission of the above documentation for approval, deviations (departures) from the mandatory requirements under the state standards must be preliminarily agreed upon with the authorities concerned.

Design Task / Initial Data for Development of Design Documentation

The employer (or developer) prepares and approves the design task, which can also be prepared by the general designer or another contractor on behalf of the employer. Design task is an integral part of the contract for the development of design documentation. Usually, the design task is formalised as an annex to the contract for design work.

Together with the design task, the employer provides to the contractual design organisation (general designer) initial data required for the development of design documentation, which includes:

- the decision of the local executive body of a district (city) to provide the relevant rights to land, including regulations on using the territory within its boundaries and the purpose of the facility;
- materials of engineering surveys of the construction site (within the boundaries of the land plot and laying routes of service lines), including materials of topographic surveys and data of geological and hydrogeo-

logical surveys carried out not earlier than 36 months (or not earlier than 18 months, in case of a unique facility) before commencement of the design of the facility (complex) in accordance with current regulations, which are necessary for the design and construction;

- technical conditions for connection to engineering and utility sources, provided, at the request of the local executive body, by engineering and utility service providers in the area of proposed construction; and
- architectural and planning assignment issued by a local (city, district) architecture and town planning authority, including the conditions for land use engineering, landscape and shade gardening.

The contractor is obliged to comply with the requirements contained in the task and other initial data for the design and survey work and may depart from them with the employer's consent only.

2.2. Agreement upon Design Documentation

Design documentation developed in accordance with the design task, architectural planning assignment and other initial data is subject to agreement upon and approval, as required under national regulations.

Design documentation must contain the design chief engineer's or chief architect's note that the design documentation meets the requirements of national regulations.

In some instances, additional approvals of project documentation by government agencies (e.g., the Committee for Construction Affairs or the Committee for Industrial Development and Industrial Safety) are required. Such instances include the construction of special-purpose facilities (e.g., hazardous production facilities), if so expressly provided for by legislative acts.

Additional approvals are also required if an additional land plot is allocated (or a territory is added), or transportation or communication links change, or initial architectural and aesthetic, engineering, fire-resistant, blast-resistant or sanitary qualities, or environment degrade.

For example, the design documentation for the construction of access roads and junctions to public roads is subject to approval by the structural

division of the Ministry of Internal Affairs of the Republic of Kazakhstan as current legislation of the Republic of Kazakhstan explicitly contemplates so.

In particular, in accordance with paragraph 2 of Article 36 of the Law of the Republic of Kazakhstan “On Road Traffic”, regulatory, design and engineering documentation for the design, construction, repair and maintenance of roads and their management in terms of road traffic safety is subject to agreement upon and approval, as established by the authorised body on road traffic safety.

In accordance with clause 29 of Order of the Minister of National Economy of the Republic of Kazakhstan “On Approval of the Rules for Organisation of Development and Passing Authorisation Procedures in the Field of Construction” dated 30 November 2015, No. 750, road construction projects must be agreed upon with the authorised body on road traffic safety in the manner established by the Rules for Agreement upon and Approval of Regulatory, Design and Engineering Documentation for Design, Construction, Repair and Maintenance of Roads and Their Management in Terms of Securing the Road Traffic Safety, approved by Order of the Minister of Internal Affairs of the Republic of Kazakhstan dated 12 March 2015, No. 208, registered in the Register of State Registration of Regulations as No. 10690.

Additional approvals are not required if the design documentation for the reconstruction, technical upgrading or major repair of existing facilities does not require an additional land plot to be allocated (or a territory to be added), or transport or communication links to be changed, or does not degrade original architectural and aesthetic, engineering, fire-prevention, anti-blast or sanitary qualities or environment.

2.3. Examination of Design Documentation

The examination is one of the final stages of development of design documentation and precedes its approval. The examination is aimed to analyse the design documentation, to determine the return of investments, and to provide design solutions for the sustainable operation of facilities after their commissioning.

The examination is carried out by expert organisations or experts certified in the relevant sections (parts) of feasibility studies or design documentation.

The Accreditation Rules for Expert Organisations were approved by Order of the Minister of National Economy of the Republic of Kazakhstan dated 27 February 2015, No. 151. To be accredited, an expert organisation must submit the following documents:

- an application;
- a certificate of its state registration (re-registration) as a legal entity;
- information about its experts and notarised copies of their identity cards, diplomas and employment contracts;
- information on the availability of a production base based on the right of ownership or another legal ground, information on material and technical resources, information on the quality control system for examination of design, and information on regulations and methodologies.

The application and forms of information are contained in the annexes to the above Order. Accreditation of an expert organisation is confirmed once every two years from the date of accreditation or confirmation.

The examination is carried out within:

- forty five (45) working days - for construction design of a facility that is a technologically or technically challenging facility of the level of responsibility I or II, or a potentially hazardous production facility;
- thirty (30) working days - for construction design of a facility that is neither a technologically or technically challenging facility of the level of responsibility II, nor is classified as a potentially dangerous facility; and
- ten (10) working days - for construction design of a facility that is neither a technologically or technically challenging facility of the level of responsibility III, nor is classified as a potentially dangerous facility.

At the discretion of the employer, in some instances, it is allowed not to conduct an examination. For example, when designing technically simple structures (houses, temporary buildings, household structures, etc.), the examination is not required.

On 29 December 2014, the Law of the Republic of Kazakhstan “On the Introduction of Amendments to Several Legislative Acts of the Republic of Kazakhstan on Radical Improvement of Business Environment in Kazakhstan” was signed, which, to large extent, has changed the examination procedure.

The term “state examination” has been excluded. Instead, the following concepts and types of examination have been introduced:

- examination of designs (comprehensive extra-departmental examination of feasibility studies and design documentation) which are intended for construction, by accredited expert organisations or experts possessing the relevant certificate;
- comprehensive extra-departmental examination of construction projects (feasibility studies and design documentation) related to the state monopoly;
- complex town planning examination – mandatory examination of town planning projects of various levels; and
- interstate examination of projects of mutual interest for two or more member states of the relevant international treaties on the design and construction of facilities or on the town planning of adjacent border areas.

In some cases, it is required that a comprehensive extra-departmental examination related to the state monopoly be conducted by the Republican State Enterprise “GosExpertisa” (previously called “gosudarstvennaya expertisa” which means ‘state examination’).

A complex extra-departmental examination by the state expert organisation is required, in particular, when constructing potentially hazardous and technically and/or technologically complex facilities (e.g., nuclear facilities, main railways, subways, etc.).

Previously, a facility could be constructed in an expert support regime. Order of the Chairman of the Agency of the Republic of Kazakhstan for Construction and Housing and Utilities Sector dated 23 July 2012, No. 356 “On Approval of the Rules for the State Examination of Construction Projects

in the Expert Support Regime” has determined the procedure for the state examination in an expert support regime for the stage-by-stage development of design documentation intended for the construction of buildings and structures or their complexes.

For each stage of construction, a local expert opinion was issued, in accordance with which construction was carried out.

Due to the fact that in Kazakhstan, the state examination was replaced with a comprehensive extra-departmental examination, the above Rules were in violation of one stop principle, which was introduced upon appearance of a comprehensive extra-departmental examination.

Initially, the comprehensive extra-departmental examination in an expert support regime was suspended and later it was excluded from the Law of the Republic of Kazakhstan “On Architectural, Town Planning and Construction Activities” by the Law of the Republic of Kazakhstan dated 28 October 2015, No. 366-V.

Upon such amendments, Order of the Minister of National Economy of the Republic of Kazakhstan, dated 2 December 2015, No. 751, was adopted, in accordance with which the above Order No. 356 has lost force.

From 1 January 2018, amendments in terms of expert support came into force and, since that time, expert support is allowed only for facilities of an international specialised exhibition. In accordance with sub-paragraphs 2-1) of paragraph 2 of Article 64-5 of the Law of the Republic of Kazakhstan “On Architectural, Town Planning and Construction Activities in the Republic of Kazakhstan”, facilities of an international specialised exhibition must be constructed in stages according to the design documentation developed for the relevant stages, accompanied by a staged examination (expert support).

The issuance of a local opinion is also allowed in the following instances: if the construction of a facility (complex) is contemplated on a launching system or in stages, or if the construction of linear structures of engineering or transport infrastructure is divided into separate sections (segments).

The design documentation for a facility impacting the environment is subject to environmental impact assessment.

Environmental assessment and sanitary and epidemiological examination of designs are carried out based on one stop principle and are included in the comprehensive extra-departmental examination of designs, i.e. separate environmental assessment is not necessary.

To implement the requirements of the above Law dated 29 December 2014, Order of the Minister of National Economy of the Republic of Kazakhstan “On Approval of the Rules for a Comprehensive Extra-departmental Examination of Feasibility Studies and Design Documentation Intended for Construction of New, and Alteration (Reconstruction, Expansion, Technical Upgrading, Modernisation and Major Repair) of Existing, Buildings and Structures, Their Complexes, and Engineering and Transport Communications Regardless of the Sources of Financing” dated 1 April 2015, No. 299 was signed.

According to the amendments, construction projects are examined based on one stop principle, through a unified electronic information system, subject to all required industry examinations. Also, the amendments affected the authorities of the state comprehensive extra-departmental examination. It is planned to conduct a two-stage transfer into a competitive environment the authority to examine some types of projects.

Since January 2015, around 50% of expert work has been transferred to the competitive environment. They include projects not related to the state monopoly and namely projects of technically and technologically simple construction facilities.

Since January 2016, to the state monopoly relates the comprehensive extra-departmental examination of projects (feasibility studies and design documentation) for:

- construction of new industrial buildings and structures related to potentially dangerous construction facilities and new technically and/or technologically complex facilities, their complexes, and engineering and transport communications, regardless of the sources of financing;
- reconstruction, expansion, modernisation, technical upgrading and major repair of existing potentially dangerous and technically and/or technologically complex facilities, financed by budget funds or other forms of public investment.

By 2020, it is planned to transfer 90% of expert work to market entities. This will be achieved by changing the criteria for classifying facilities as technically and technologically simple.

Starting from January 2020, only the following projects will relate to the state monopoly:

- regardless of the sources of financing, objects of national and interstate (international) importance, and unique facilities which, due to the lack of regulatory and technical requirements, require the development of special technical conditions - special design and construction standards; and
- technically and technologically complex buildings and structures financed by budget funds or other public investments.

2.4. Approval of Design Documentation

The design documentation is approved by the employer's decision, specifying the main approved technical and economic indicators.

Legislation of the Republic of Kazakhstan stipulates the procedure for approval of design documentation for projects constructed through public investments. The specifics of the approval of design documentation for projects financed from budget funds are contained in Order of the Minister of National Economy, dated 2 April 2015, No. 304.

3. PROCEDURES PERTAINING TO BUILDING/CONSTRUCTION PROJECTS IN THE REPUBLIC OF KAZAKHSTAN

The main construction requirements and standards are contained in the Law of the Republic of Kazakhstan "On Architectural, Town Planning and Construction Activities"; Order of the Minister of National Economy of the Republic of Kazakhstan "On Approval of the Rules for Organisation of Development and Passing Authorisation Procedures in the Field of Construction", dated 30 November 2015, No. 750; and the RoK Construction Standard 1.03-00-2011 "Construction Operations, Organisation of Construction of Enterprises, Buildings and Structures".

A construction project is implemented in the following stages:

- obtaining initial data for the development of construction projects;
- development and approval of the lay-out (design);
- development of design documentation (hereinafter the “design”) and comprehensive extradepartmental examination of construction projects (hereinafter the “examination”)
- notification to the bodies of state architectural and construction control and supervision regarding the commencement of construction and installation works, and the performance of construction and installation works;
- acceptance and commissioning of the constructed facility.

In case of construction of a single-family house no higher than 2 floors or temporary structures (utility rooms) located on own smallholdings, the design and examination of construction projects are not required.

3.1. Notification of Commencement of Construction

An employer is required to give to the bodies of state architectural and construction control a notification regarding the commencement of construction and installation works prior to thereto. Notification must be given by an applicant to the state body which receives notification through **e-license.kz**, the state information system of permits and notifications.

The form of notification was approved by Order of the Minister of National Economy “On Approval of Forms of Notification and Rules for Receiving Notifications by State Bodies and on Determination of State Bodies for Receipt of Notification”, dated 6 January 2015, No. 4.

Notification must be given in the names of the Main State Building Inspector and the Inspectors of the relevant region and city of national significance. Notification must contain the name of the employer or developer, the name and location of the construction facility, the date of commencement of construction, the commissioning date, and the source of financing. Notification must also contain information regarding the provision of rights to land, the approval of

design documentation, the examination (if required); information regarding the contracting entity and responsible persons for both the employer and the contractor; and information on the architectural and on-site supervision.

A copy of the Positive Expert Opinion (provided that an examination was conducted) and the Act of Choice of Land Plot must be attached to notification.

Upon notification, an applicant obtains a talon in the form of an electronic document. After such document is obtained, the applicant may proceed with the construction.

3.2. Construction Requirements

When carrying out the preparatory work, a sign with a construction passport must be placed on the construction site, indicating information regarding the employer(s), contractor(s), project designer(s), person(s) exercising architectural and on-site supervision, and information about the construction and installation works being performed (including the construction commencement and completion dates). This requirement does not apply to the individual housing construction.

Throughout the entire construction (conservation) period and lifetime (operation) of a facility, the owners (employers, possessors, employers and tenants) must ensure the following:

- compliance of the quality of construction products with the requirements established in construction designs);
- compliance of the quality of construction materials with the technical standards of the Republic of Kazakhstan);
- safety in the course of erection and exploitation, including in the course of conduct of works and maintenance of the facility);
- compliance with labor protection requirements (compliance with fire safety requirements, prevention of exposure of workers to hazardous production factors);
- stable and reliable operation of the facility; and

- compliance with environmental requirements (land reclamation, prevention of loss of natural resources, prevention or purification of harmful emissions into soil, water bodies and atmosphere).

3.3. Architectural and Construction Control and Supervision

The construction process is accompanied by architectural and construction control and supervision pursuant to the list of a private business entity's fields of activities that are subject to state control and supervision.

Architectural control and supervision over the quality of construction of a facility is exercised by the municipal government agency "Office of State Architectural and Construction Control" (in Astana - the Office of Control and Quality of the Urban Environment) and the local executive bodies of the relevant region (the city of national significance, or the capital).

The Office of State Architectural and Construction Control checks whether the employer (developer) has the necessary documentation for the construction. The Office also controls the quality of construction materials and monitors compliance of construction and installation works with the design and the state standards and exercise by the contractor of its own construction quality control and on-site and architectural supervision.

In carrying out its activities, the Office of State Architectural and Construction Control has the right to inquire information about construction facilities that are planned for construction and/or are under construction, to request design documentation, and to freely visit and inspect construction facilities. Based on the results of inspection, a certificate and a sheet of facilities are formalised. If any deviations from the state standards or design documentation are detected, the Office of State Architectural and Construction Control issues an appropriate order indicating the timeframe for elimination of violations. Prescriptions may be as follows:

- on the prohibition from using construction materials, products, structures and equipment not meeting the national standards and specifications;
- on the elimination by the employer (developer) and/or contracting construction and installation entity (enterprise) of their/its violations in a timely manner; and

- on the suspension of construction and installation works.

3.4. Architectural Supervision

The author of a piece of architecture (the author of a design and/or the developer of design documentation) is granted the exclusive property rights to use the design and to authorise its implementation and the right to carry out or authorize its reproduction, distribution and processing and may delegate such rights to other persons.

The authority related to architectural supervision may be delegated either to an expert, who is certified to carry out engineering services in the field of architectural, town planning and construction activities, or to the employer to enable him to independently select a supplier of engineering services relating to architectural supervision, who has the relevant certificate.

In addition to the above exclusive rights, the author of a piece of architecture has the right to control both the development of construction documentation and its implementation, including the architectural supervision over the construction process, and photographing (film or video recording). These powers are not absolute and may be limited by the design task or the contract for the development of design documentation.

Architectural supervision is based on a contract for the development of design documentation. Architectural supervision is required throughout the entire period of construction (reconstruction, restoration, expansion, technical upgrading, modernisation and major repairs) of a facility or preservation of a construction in progress.

The scope of a contract for architectural supervision may include, among other things, the following:

- control over compliance of actual performance of construction and installation works with the working documentation, and architectural supervision over the construction process;
- control over compliance of formalisation of post-completion documentation with the standards adopted in the Republic of Kazakhstan;

- maintenance, during the construction and installation works, of an architectural supervision log and its provision to the employer upon completion of architectural supervision;
- control over the development of a construction project by the author(s) of an architectural and town planning work and over the implementation of a construction project by its developers, including the author(s) of an architectural or town planning work.

An architectural supervision log must be maintained. It must include instructions, identified deviations from the design documentation, identified violations of the requirements of building codes, rules and technical conditions for construction and installation works, and instructions to eliminate identified deviations or violations and the timing for their implementation. When the construction of a facility is completed, the person exercising the architectural supervision must issue to the employer (developer) an opinion on conformity of the works to the design.

Architectural supervision must be exercised by the developers of project (design) documentation at all construction facilities, except where:

- construction of single-family houses and other technically simple structures intended for personal use, except for facilities constructed from budget funds, and single-family houses with more than two floors, located in areas of high seismic risk, or with other specific geological (hydrogeological) and geotechnical conditions requiring special design solutions and measures for their implementation;
- construction of temporary structures on own smallholdings or kitchen and garden communities' lands, or residential and/or utility rooms for seasonal work and/or distant-pasture cattle tending;
- reconstruction (redevelopment, re-equipment) of premises (separate parts) of existing buildings, not related to changes in the bearing and enclosing structures or the engineering systems or equipment, or changes to the functional purpose of premises;
- construction of household buildings in the territories of individual smallholdings, constructions on the kitchen and garden communities' lands, or improvements in the surrounding territories or on smallholdings (or garden plots);

- containerised or modular construction of mobile complexes or one-story buildings (structures) for trading enterprises, public catering and consumer services, built from pre-fabricated and demountable structures not requiring approval from the sanitary and epidemiological services;
- construction of open-air car parks for no more than fifty (50) cars or garages with boxes for no more than two (2) cars;
- construction of small architectural forms or site fences;
- construction of open sports grounds, sidewalks or pavements around buildings (structures).

From 1 April 2015, the rights and obligations in respect of architectural supervision are expressly established in the Law of the Republic of Kazakhstan “On Architectural, Town Planning and Construction Activities”. Earlier, the rights and obligations were determined in a contract for architectural supervision.

In addition, from 1 April 2015, for the non-performance (improper performance) of its duties or the implementation of its activities in violation of the requirements of legislation of the Republic of Kazakhstan, a person exercising architectural supervision is liable in accordance with the laws of the Republic of Kazakhstan.

3.5. On-Site Supervision

On-site supervision is one of the types of supervision over the construction that is required for all construction facilities over which no architectural supervision is exercised. It is exercised either independently by the employer, or by an expert duly certified to provide engineering services. A note on on-site supervision and data on persons exercising on-site supervision must be included in the work log.

On-site supervision is required at all stages of the project - from the commencement of construction and installation works until the acceptance and commissioning of a facility. On-site supervision is exercised over the quality of performed works, the timing of their performance and their cost.

The persons exercising on-site supervision are required to notify the bodies of state architectural and construction control (called GASK) if any violations of the standards and requirements established by legislation of the Republic of Kazakhstan are determined.

The terms of on-site supervision are not statutorily specified. State standards provide for some cases only where on-site supervision is mandatory and the procedure for its exercising is established. For example, for control tests as to the adhesion of masonry from brick or stone at a construction site, the wall sections must be selected as instructed by the representative of on-site supervision. Joint grouting also requires strict technical control and formalisation of an act of quality of works performed.

On-site supervision is important in identifying and certifying hidden works, the result of which will not be visible upon completion of construction. Such works require acceptance by a representative of on-site supervision and formalisation of the relevant certificate of hidden works.

If on-site supervision is exercised by an expert, its terms and conditions can be determined in the contract for engineering services. After signing the contract, the employed organisation must provide to the employer for approval the organisational chart formed by it for on-site and architectural supervision and management of the project and its nominee to be elected as the project manager.

In respect of a technically and technologically complex facility of the level of responsibility I or II, on-site supervision must be exercised by an accredited legal entity consisting of at least three experts certified to exercise on-site supervision of the appropriate level of responsibility.

Upon completion of a construction project, a person(s) exercising on-site supervision must issue to the employer (developer) an opinion on the quality of construction and installation works.

Due to the amendments which are effective since 1 April 2015, the rights and obligations in respect of on-site supervision and related liability for statutory violation are now directly specified in the Law of the Republic of Kazakhstan "On Architectural, Town Planning and Construction Activities".

3.6. Authorities and Peculiarities of Work of Engineer

The scope of services of a constructing engineer includes on-site supervision, architectural supervision and project management. The project management was included from the effective date of the Law of the Republic of Kazakhstan dated 28 October 2015, No. 366-V “On the Introduction of Amendments to Several Legislative Acts of the Republic of Kazakhstan on Architectural, Town Planning and Construction Activities”.

The Rules for the Provision of Engineering Services are approved by Order of the Minister of National Economy of the Republic of Kazakhstan dated 3 February 2015, No. 71. The Rules list functions to be performed by an engineer as part of on-site supervision, architectural supervision and project management.

In this regard, it should be noted that on-site supervision in the field of equity participation in housing construction is required to be exercised by engineering companies in the field of equity participation in housing construction under the Law of the Republic of Kazakhstan dated 7 April 2016 “On Equity Participation in Housing Construction”.

The main on-site supervision functions are as follows:

- monitoring whether the schedule for construction and commissioning of facilities conforms to the regulatory deadlines or deadlines specified by a construction contract;
- in case of any discrepancies in the design documentation or any necessary changes in design solutions or any necessary replacement of materials, goods, structures or equipment - making proposals for solving these issues by the employer;
- quality control of construction and installation works and materials, goods, structures and equipment used; verification as to whether the design documentation conforms to the technical conditions for connection to the utilities system, the requirements of technical regulations, and the results of engineering surveys; verification of the availability and correct formalisation of documents confirming their quality (passports, certificates and test results) and documented results of incoming quality control; timely detection of defects and

violations, notifying the employer and the contractor thereof – all on an ongoing basis;

- confirmation of readiness of a facility for commissioning, and issuing an opinion on the quality of construction and installation works, in the form, as approved by Order of the Minister of National Economy of the Republic of Kazakhstan “On Approval of the Forms of an Opinion on the Quality of Construction and Installation Works and Compliance of Performed Works with the Declaration of Conformity, and a Facility Commissioning Certificate”, dated 24 February 2015, No. 121, as registered in the Register of State Registration of Regulations as No.10529; and
- participation in the acceptance of equipment after testing, etc.

The main architectural supervision functions are as follows:

- verification as to whether the volume, scope, methods and quality of works performed as part of construction of buildings and structures conform to design solutions, including works on the installation of major equipment;
- timely solution of issues arising in the process of construction with regard to the design documentation, and making amendments to the design documentation, as established by the existing state standards;
- verification as to whether certificates (passports) and other technical documentation for structures, parts, building materials and equipment conform to the state standards, technical conditions and design documentation, etc.

When the construction of a facility is completed, the person exercising the architectural supervision issues to the employer (developer) either an opinion on conformity of the works to the design, or a negative opinion, in accordance with the established form of the relevant approved regulation.

On-site and technical supervision requires certification of experts. The Rules for Certification of Experts were approved by Order of the Minister of National Economy of the Republic of Kazakhstan dated 27 November 2014, No. 114.

The following documents must be submitted for certification:

- an application;
- a copy of identity card of the applicant;
- a notarised copy of the applicant's diploma of higher professional education (if the applicant has an academic degree and/or academic title – copies of the relevant documents); and
- a notarised copy of the employment record book or other documents confirming the work experience.

Submitted documents are considered within a term of ten (10) working days. Based on the results of consideration of the documents, a list of persons approved for testing is formed and a schedule for testing is drawn up. The testing continues 120 minutes. The test consists of 100 questions. Test questions are prepared and approved by the authorised body.

The project management means the organisation, planning, coordination and control of the design, construction and commissioning of facilities in accordance with contracts entered into with the employer or investor to achieve the objectives of an investment project within the given budget and time frames.

The functions of organisations providing engineering services related to project management are listed in Order of the Minister of National Economy of the Republic of Kazakhstan, dated 3 February 2015, No. 71.

The following are general functions of the above organisations:

- the provision of services under a contract with the employer;
- notifying the employer of problems that arose or might arise with regard to the implementation of the construction contract;
- issuing recommendations, etc.

The functions with regard to the development of a design include the following:

- verification as to whether adopted design solutions are effective;
- making proposals for improving engineering parameters of a designed facility, etc.

The functions with regard to the construction and installation works include the following:

- ensuring full conformity of construction and installation works performed by the contractor to the design documentation;
- control of designated and effective use of funds allocated at performing construction and installation works, etc.

Organisations providing the project management services must be accredited by the authorised body. The qualification requirements for organisations providing project management services are approved by Order of the Minister of National Economy of the Republic of Kazakhstan, dated 30 November 2015, No. 749 and include the following:

1) availability of at least three certified experts for on-site supervision of facilities of the level of responsibility I for the following specialisations:

- bearing and enclosing structures - at least one expert;
- engineering networks - at least one expert; and
- technological equipment - at least one expert;

2) availability of at least one certified engineer specialised as “Chief Project Engineer” and/or “Chief Engineer”;

3) availability of at least one qualified cost engineer;

4) availability of administrative and amenity rooms owned or otherwise legally possessed; and

5) availability of material and technical resources, in particular, workstations with installed software which allows performing calculations, drawing up and designing graphic and other materials.

3.7. Equity Participation in Housing Construction

3.7.1. Ways of Organisation of Equity Participation in Housing Construction

In accordance with the Law of the Republic of Kazakhstan “On Equity Participation in Housing Construction”, dated 7 April 2016, No. 486-V, equity participation in housing construction can be organised through:

- attracting money from equity construction participants upon a residential house’s carcassing;
- obtaining a guarantee from the Guarantee Fund; or
- participation in a project of a second-tier bank.

The above three ways are the only possible options to attract money from individuals and legal entities for the construction of residential buildings. Other ways to do so are prohibited by the law.

The first way of organisation of equity participation in housing construction is to attract money from equity construction participants upon a residential house’s carcassing. Carcassing means a load and impact bearing system which ensures the house’s strength, rigidity and sustainability and has supporting, floor and roof structures.

To be eligible to housing construction in the manner described above, in the recent five years, a developer must have constructed and put into operation in Kazakhstan, including as an employer and a contractor (general contractor) in aggregate, residential houses (residential buildings) with a total area of at least:

- sixty thousand (60,000) square meters - in case of construction in a city of national significance and/or in the capital; or
- thirty thousand (30,000) square meters - in case of construction in another administrative and territorial unit.

In doing so, into account is taken the aggregate experience of subsidiary organisations of the developer.

If a developer meets the above requirements, it may create an authorised company which is required to have:

- a land plot possessed on the basis of the right of temporary paid land use (lease), provided by the state, or on the basis of ownership right;
- design documentation for the construction of a residential house (residential building), and a positive opinion related to the comprehensive extradepartmental examination;
- complete construction of carcassing of a residential house (residential building) to be confirmed by an engineering company's report; and
- a contract with an engineering company.

If the developer and the authorised company meet the established requirements, they apply to the Akimat to obtain its authorisation to attract money from equity construction participants. After such authorisation is obtained, the authorised company may attract money from equity construction participants for the construction of a residential house.

The second way of organisation of equity participation in housing construction is to obtain a guarantee from the Guarantee Fund.

To reduce risks and protect the rights of equity construction participants, the Housing Construction Guarantee Fund ("Guarantee Fund") was created within Baiterek, a national holding. The main activity of the Guarantee Fund is to guarantee the completion of construction of a residential house. In other words, the Guarantee Fund guarantees that individuals participating in shared construction will get their housing.

The Guarantee Fund is empowered to determine for a shared construction participant the qualification requirements regarding its financial stability and experience. If the developer meets such requirements, it must create an authorised company which will carry out activities under one project merely. An authorised company is required to have:

- a land plot possessed on the basis of the right of temporary paid land use (lease) provided by the state, or on the basis of ownership right;
- design documentation for the construction of a residential house (residential building), and a positive opinion related to the comprehensive extra-departmental examination;
- money planned for expenditure, and/or construction in progress to be confirmed by acts of performed works, in the amount of not less than ten percent (10%) of the project cost if the land plot is owned, or in the amount of not less than fifteen percent (15%) of the project cost if the land plot is possessed based on the right of temporary paid land use (lease), provided by the state;
- money for payment of a fee for the consideration of documents, and a guarantee fee under the contract for the provision of a guarantee; and
- a contract for the construction of a residential house (residential building).

If the developer and the authorised company meet the established requirements, the Guarantee Fund checks the completeness of the documents provided for the construction project and executes a contract for the provision of a guarantee.

Upon execution of such contract, no authorisation is required to attract money from equity construction participants.

To note is the peculiarity of housing construction by virtue of obtaining a guarantee from the Guarantee Fund. A developer is required to submit to the Guarantee Fund its annual financial statements confirmed by an auditor's report, and an authorised company is required to submit its quarterly financial statements during the term of operation of the relevant contract for the provision of a guarantee.

The third way of organisation of equity participation in housing construction is, as referred to above, to participate in a project of a second-tier bank.

To do so, a developer is required to have at least three (3) years of experience in the construction of residential houses, including as an employer

and a contractor (a general contractor) in aggregate, with a total area of at least:

- eighteen thousand (18,000) square meters – in case of construction in a city of national significance or in the capital; or
- nine thousand (9,000) square meters – in case of construction in another administrative and territorial unit.

A developer must create an authorised company as in above instances. But in this instance, the number of requirements for an authorised company is less and, in particular, such requirements oblige the authorised company to have the following:

- a land plot possessed on the basis of the right of temporary paid land use (lease) provided by the state, or on the basis of ownership right; and
- the design documentation for the construction of a residential house (residential building), and a positive opinion related to the comprehensive extra-departmental examination.

If the developer and the authorised company meet the established requirements, the developer and/or the authorised company may apply to a second-tier bank to obtain a second-tier bank's decision on readiness to finance the construction of a residential house (residential building) for an amount sufficient to complete the construction.

In case of readiness to finance a residential house (residential building), a second-tier bank enters into a contract with an engineering company. Thereafter, the developer and the authorised company apply to the Akimat to obtain its authorisation to attract money from equity construction participants.

3.7.2. Obtaining by the Developer of Authorisation to Attract Money from Equity Construction Participants

Order of the Minister of National Economy of the Republic of Kazakhstan dated 29 July 2016, No. 352 approved the Rules for Authorisation to Attract Money from Equity Construction Participants.

An authorisation to attract money from equity construction participants is not required only if there is a guarantee from the Guarantee Fund. In all other cases, the developer and the authorised company are required to obtain the authorisation in question from the local executive body.

An authorisation to attract money from equity construction participants is issued by the local executive body (the Akimat) for the entire period of construction of a residential house until it is put into operation.

To obtain the authorisation, the developer and the authorised company must submit the following documents to the Akimat:

- an application in the established form (the form of application is approved by Annex No. 1 to the Rules for Authorisation to Attract Money from Equity Construction); and
- copies of documents confirming their compliance with the requirements established by the above Law for the developer and the authorised company.

The requirements for the developer and the authorised company are different for each way of organisation of equity participation in housing construction, as described in paragraph 3.7.1 hereof.

The term of consideration of documents by the Akimat is ten (10) working days from the day the documents are submitted. Based on the results of consideration of documents, the Akimat issues either an authorisation to attract money from equity construction participants or a reasonable refusal to issue the authorisation. The developer and the authorised company may re-apply for the authorisation following elimination of the deficiencies mentioned in the refusal, or appeal the refusal to a court.

3.7.3. Liability for Violation of Legislation on Equity Participation in Housing Construction

Persons attracting money from individuals and legal entities for equity participation in housing construction in violation of the requirements established by legislation bear liability in accordance with the laws of the Republic of Kazakhstan and namely administrative liability under Article 320 of the Code of the Republic of Kazakhstan “On Administrative Violations”.

Three paragraphs of this Article determine certain violations and liabilities in the field of equity construction as per below:

- a violation by a developer and/or an authorised company of the requirements of a legislative act of the Republic of Kazakhstan on equity participation in housing construction, including the requirements for the content of information to be disclosed and the procedure for its distribution, or the distribution by a developer and/or an authorised company of inaccurate, incomplete or false information. Such violation entails a fine in the amount of three hundred times the monthly calculation index (MCI) upon a legal entity;
- non-submission by a developer and/or an authorised company to the local executive body of the city of national significance, the capital, district, or city of regional significance of information and reporting provided for by the laws of the Republic of Kazakhstan, or their submission of inaccurate information and reporting or false or incomplete report on the results of monitoring the construction progress of a residential house (residential building) by the engineering company. Such violation entails a fine in the amount of three hundred times the MCI upon a legal entity;
- a repeated violation, within one year after an administrative fine was imposed, under the above two paragraphs, entails a suspension of the authorisation to attract money from equity construction participants for a period of up to three months.

3.8. Completion of Construction

3.8.1. Facility Commissioning

Almost any constructed (reconstructed) facility in Kazakhstan is subject to commissioning. The instances where a facility may be accepted by its owner independently, without the involvement of a contractor and without architectural and technical supervision, are described below in paragraph 3.8.2. Without having been commissioned, a facility may not be registered as completed and included in the relevant database as a real estate. Prior to commissioning, a facility is regarded to be a set of construction materials.

Commissioning a facility means its inspection to determine its suitability for operation and to identify and record its deficiencies. A facility commissioning is formalised through the approval of a Facility Commissioning Certificate.

A facility commissioning gives rise to certain rights and obligations of all persons involved in the facility commissioning. If a facility is commissioned with a violation and/or construction defect, then involved persons bear liability under the laws of the Republic of Kazakhstan, i.e. administrative or criminal liability, depending on damage caused. If a defect identified in the course of a facility commissioning is irreparable and prevents the use of the construction facility as designated, then the employer is entitled not to accept the results of work.

As a rule, a construction contract stipulates a warranty period during which an employer may file a claim against its contractor regarding a defect, including a hidden one. Under legislation of the Republic of Kazakhstan, a warranty period is ten (10) years, however, a contract may provide for a different period.

Since 1 January 2016, the procedure for a facility commissioning has been changed, in particular, the legislator has abolished the State Acceptance commission, the Acceptance Commission and the Working Commission and a facility commissioning involves currently only an employer, a contractor (general contractor) and representatives of on-site supervision and architectural supervision.

According to the changes, now the following documents are required to commission a facility:

- Declaration of Conformity, which is issued to the employer upon completion of construction by the contractor;
- Opinion on the Quality of Construction and Installation Works, which is issued to the employer by the person exercising the on-site supervision; and
- Opinion on Conformity of Performed Works to the Design, which is issued to the employer by the person exercising architectural supervision.

The forms of the above declaration and opinions were approved by Order of the Minister of Investments and Development of the Republic of Kazakhstan “On Approval of the Forms of Opinions on the Quality of Construction and Installation Works and Conformity of Performed Works to the Design, and Declaration of Conformity”, dated 24 April 2017, No. 235.

The form of a Facility Commissioning Certificate was approved by Order of the Minister of Investments and Development of the Republic of Kazakhstan “On Approval of the Form of a Facility Commissioning Certificate”, dated 24 April 2017, No. 234.

A facility is accepted from a contractor by the employer jointly with persons exercising on-site and architectural supervision.

A contractor must notify the employer about the readiness of the facility for operation. Upon receipt of such notification, the employer must request from the contractor - a Declaration of Conformity, from a representative of on-site supervision – an Opinion on the Quality of Construction and Installation Works, and from a representative or architectural supervision – an Opinion on Conformity of Performed Works to the Design.

The contractor and persons exercising on-site and architectural supervision must provide the above documents within three (3) working days, and, based thereupon, the employer, jointly with persons exercising on-site and architectural supervision, is obliged to check, whether the required post-completion engineering documentation is available and complete, and to inspect and accept the facility for operation according to the relevant certificate.

3.8.2. Acceptance of Facility by Employer

Legislation of the Republic of Kazakhstan provides for a number of instances where a facility may be accepted by an employer himself. These are instances dealing with technically simple construction and installation works, which include the following:

- reconstruction by way of redevelopment of premises (separate parts) of existing buildings, not related to changes in the bearing and enclosing structures;

- construction of temporary structures, including utility rooms for seasonal work and/or distant-pasture cattle tending;
- construction of household buildings in the territories of individual smallholdings, constructions on the kitchen and garden communities' lands, or improvements in the surrounding territories or on smallholdings (or garden plots);
- containerised or modular construction of mobile complexes or one-story buildings (structures) for trading enterprises, public catering and consumer services, built from pre-fabricated and demountable structures not requiring approval by the sanitary and epidemiological services;
- construction of open-air car parks for no more than fifty (50) cars or garages with boxes for no more than two (2) cars;
- construction of small architectural forms or site fences; and
- construction of open sports grounds, sidewalks or pavements around buildings (structures).

However, the above facilities may not be accepted by an employer himself, if the construction and/or operation thereof prejudice the rights of other individuals or causes a contradiction to the state or public interests. The above facilities are also not subject to acceptance by an employer, if their construction is financed by the state or if they are located in seismic areas and are have more than two (2) floors.

3.8.3. Registration of Construction Facility

The basis for registration of a construction facility with the state body is a Facility Commissioning Certificate, which is approved by, and registered with, the structural division of the relevant local executive body.

Within six (6) months following approval of a Facility Commissioning Certificate, it is necessary to submit the required documents for registration of the rights to real estate. A violation of this timing entails administrative liability in the form of a warning. If the documents are not submitted for registration within one year after the warning, then the administrative liability is as follows: ten (10) times the MCI – for an individual, or twenty (20) times the MCI – for a legal entity.

A construction facility is registered within three (3) working days upon receipt of the registration application. **Since 1 July 2018**, registration fee for the state registration of ownership rights to real estate is no longer required to be paid in accordance with the Law of the Republic of Kazakhstan, dated 24 May 2018, No. 156-VI.

3.8.3.1. Documents Required for Registration of Construction Facility

Required documents for registration of rights to a construction facility must be submitted to Public Corporation “Government for Citizens”, a non-profit JSC, at the location of the facility. The Public Corporation “Government for Citizens” is the registering authority.

Documents Required for Registration of Rights to Construction Facility:

- a document certifying the identity of an individual (applicant) or the constituent documents of a legal entity (authorised representative of the applicant);
- application for state registration in the established form;
- title documents, and other documents confirming the facility to be registered. In case of registration of the right to a land plot, an identification document for the land plot must be provided. The title documents include: a purchase and sale contract, the contract of gift, a Facility Commissioning Certificate and others. If a Facility Commissioning Certificate is provided, it must have been recorded in the structural division of the relevant local executive body, i.e. in GASK (Office of the State Architectural and Construction Control in Almaty). GASK does not check the content and compliance of the Facility Commissioning Certificate with the legislative requirements, GASK only registers such Certificate;
- constituent documents and minutes of meetings (or extracts from them) of founders (participants, board of directors, council of shareholders) for the acquisition or sale of real estate - in cases so stipulated by legislative acts of the Republic of Kazakhstan or constituent documents;
- a foreign legal entity must submit a legalised extract from the Trade Register, or other legalised document certifying that it is a legal entity

under the laws of a foreign state, with a notarised translation thereof into the state (Kazakh) and Russian languages; and

- prior written consent of the antimonopoly authority, if the registration application contains information that the aggregate book value of the asset acquired or sold exceeds the amounts established by the antimonopoly legislation.

A record of the state registration of rights (encumbrance of rights) to real estate is made by the registration authority in the information system of the legal cadastre.

3.8.3.2. Engineering Survey of Construction Facility

Until 27 February 2017, under the Law of the Republic of Kazakhstan “On State Registration of Real Estate Rights”, an obligatory condition for state registration of a commissioned construction facility was its engineering survey. After that date, amendments were made to the said Law. Under such amendments, **no state engineering survey is required, and no technical passport is formalised** for a newly created real estate.

In accordance with the above amendments, identification and technical data of buildings, structures and/or their components in respect of newly created real estate is entered by Public Corporation “Government for Citizens”, a non-profit JSC, into the information system of the legal cadastre on the basis of Facility Commissioning Certificate, which is subject to registration with the structural division of the relevant local executive body.

State engineering survey and assignment of cadastral numbers to buildings, structures and their components are required in case of a change in technical or identification characteristics of buildings, structures and/or their components as a result of their reconstruction, redevelopment, re-equipment, except for instances where a change in such characteristics can be reflected in their technical passports without a survey, e.g., a change in the cadastral number, address, or address registration code (if any). In practice, however, these amendments were not observed throughout 2017, and an engineering survey of a construction facility continued to take place since the cadastral number is assigned to real estate based on the result of such survey. In 2018, the situation has started to change gradually.

Engineering survey of buildings and structures is carried out by the divisions of the Real Estate Center in the regions and in Almaty and Astana. Based on the results of survey of a construction facility, a cadastral number is assigned to, and a technical passport is formalised for, the facility. To obtain a technical passport, the following documents are required:

- a written application;
- a title document for real estate;
- existing technical passport (if any);
- act on the land plot; and
- a document confirming the payment for issuance of the technical passport.

For the issuance of a technical passport it is necessary to apply to Public Corporation "Government for Citizens", a non-profit JSC. It should be noted in Almaty, starting from 5 April 2014, a technical passport can be requested through the relevant branch of the above Public Corporation only. The time-frame for issuing a technical passport varies depending on the facility's complexity and can be from three (3) to ten (10) working days subject to the type of facility. Payment for the issue of a technical passport is made in two stages. When submitting documents, the applicant pays the basic cost of the related service and, thereafter, the applicant makes an additional payment, depending on the type and actual area of the facility, based on the results of its survey.

As part of engineering survey, a cadastral number is assigned to a facility. In case of a building in a settlement, its cadastral number will consist of the cadastral number of the land plot and the address number of the building.

When submitting documents for the issue of a technical passport, it is necessary to make sure that information about the facility in question is contained in the Address Register; otherwise, it will be necessary to assign an address. The assignment of address is free of charge and takes six (6) working days.

4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF CONSTRUCTION CONTRACTS WITH NON-RESIDENT GENERAL CONTRACTORS

There are limited options for a foreign contractor to work in Kazakhstan. Set forth below is a brief review of such options, indicating their advantages and disadvantages.

Legal entity registration	
Advantages	Disadvantages
A legal entity is legally independent	A construction contract may be signed in the local currency only
A branch/legal entity is registered within a period from 3 to 15 days	To terminate a registered branch or legal entity, it could take up to 12 months
A branch can get a licence of category I or II for construction or design development, using its mother company's experience	A legal entity can not use its shareholders' professional experience and, thus, it is eligible to licence of category III only for construction or design development
An equipment producer or its authorised representative does not need to have a licence in some cases of assembling works	It is very difficult to get a licence where the personnel is entirely foreign (i.e. consists of employees educated outside the former USSR.)

Partnership agreement (consortium) with a local company that has local licenses	
Advantages	Disadvantages
The parties to a partnership (consortium) agreement are free to agree on any terms thereof	There is a need to make a partnership (consortium) agreement very detailed but, due to the lack of time, such agreements are usually poorly detailed

It is allowed that in a consortium, only one party possesses a licence for the construction or design development in Kazakhstan	It is impossible to have a common bank account
The employers in Kazakhstan are open for this format of relations	The tax and custom legislation in this area is very arguable

Sub-contracting works to a local entity	
Advantages	Disadvantages
There is no obligation to have a licence for the general contractor which sub-contracts the major scope of work to sub-contractors.	It is prohibited to sub-contract more than 2/3 of the total scope of works
The engineering company can be the general contractor legally	Design adaptation in Kazakhstan is, in fact, the design developed from the scratch
In some cases, it is possible to agree with the employer on direct payments for goods and equipment to the producer thereof in any currency	The contract with the employer will be in the local currency

Establishment of a branch or a legal entity of a foreign company

Local construction companies usually operate in the form of a limited liability partnership (LLP), which is an analogue of LLC in Russia, or in the form of a joint-stock company (JSC). In this regard, it should be noted that a newly established legal entity may not engage in the construction of technically complex facilities. Without being experienced, it will not be able to obtain the necessary license.

As regards a foreign company, it may carry out its activities in Kazakhstan through its branch or representative office. These are the only ways enabling it to carry out construction activities in Kazakhstan, using its previous construction experience in other countries.

Foreign companies have got the opportunity to obtain a license without opening their sub-division in Kazakhstan. To comply with the formality to obtain the necessary permits for construction activities, in some cases, it is sufficient for a company to obtain a business identification number (BIN) and to open an account with a local bank.

Under the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget”, opening a current account with a local bank requires a foreign company to obtain a BIN. To do so, a foreign company must submit to the tax authority, at the location of the bank where it intends to open a current account, an application and notarised documents, including its constituent documents and a document confirming its incorporation and tax registration in the country of its incorporation. Thereafter, the tax authority issues a Registration Certificate in the established form, which indicates the BIN.

Upon receipt of the Registration Certificate, a foreign company can apply to a local bank to open a current account. The list of required documents and the timing for opening a current account vary depending on the selected bank.

The procedure for establishing and registering a branch of a foreign company (meaning a foreign company registered in or outside the CIS) has little differences from the registration of a branch of a local legal entity. Such differences include the requirement to apostillise the company’s constituent documents and translate them into Kazakh and Russian, and to provide a legalised (apostilled) Extract from the Trade Register or another document confirming that the foreign company establishing a branch/representative office in Kazakhstan is a legal entity under the laws a foreign state, and a document confirming the company’s tax registration. Upon tax registration and receipt of a Certificate of State (Record) Registration, it is necessary to manufacture a seal, to open a bank account and to hire an accountant. It should be noted that a registered representative office of a foreign company not conducting any activity is still obliged to submit reports (called in Russian “*pustografki*” in business circulation) to the authorised state revenue bodies and other authorities.

The head of a branch must be appointed by the Chief Executive Officer of the parent company and acts on the basis of a General Power of Attorney. If the head of the branch is a foreign national, then no work permit is required for him or her.

Meanwhile, other foreign nationals, if any, employed for the work with the branch will need a work permit pursuant to the Rules for Employment of Foreign Nationals.

A permit for employment of foreign nationals is issued for the following four categories of employees:

- Category I – key executives of an organisation, and their deputies;
- Category II – heads of structural divisions;
- Category III – specialists; and
- Category IV – skilled manpower.

An employer is required to observe the established proportion between Kazakhstani nationals and foreign nationals as follows: with regard to Category I and Category II and with regard to Category III and Category IV, Kazakhstani nationals must represent no less than 70% and 90% of total employees, respectively.

Some foreign employees do not need a work permit. The list of such employees is approved in Annex No. 2 to the Resolution of the Government of the Republic of Kazakhstan, dated 15 December 2016, No. 802. In addition to the head of a branch or a representative office of a foreign company, such employees include:

- nationals of the member states of the Treaty on the Eurasian Economic Union of 29 May 2014;
- chief executive officers of organisations that have concluded contracts with the Government of the Republic of Kazakhstan for an amount of investments in cash equivalent exceeding US\$50 million;
- chief executive officers of Kazakhstani companies that invest in priority activities and have concluded a contract with the authorised investment body;
- employees who are on a business trip, of which the term does not exceed a total of one hundred twenty (120) calendar days within a calendar year; and others.

The list of persons whose employment does not require a work permit is also established in Article 32.2 of the Law of the Republic of Kazakhstan “On Employment”. This list is slightly different from the list approved by the above Governmental Resolution No. 802. For example, it does not require a work permit for:

- employees working in the autonomous cluster fund of the special economic zone “Park of Innovative Technologies” as heads and specialists with higher education; and
- employees working in the autonomous educational organisations and their organisations and in the “Nazarbayev Foundation” as heads and specialists with higher education, and others.

5. REFORM OF THE CONSTRUCTION INDUSTRY: CURRENT OUTCOMES AND FORTHCOMING DEVELOPMENTS

Major changes in the construction sector in Kazakhstan took place in 2015 and 2016. Current changes are mostly aimed to get rid of some duplicate issues and requirements, to make the construction process more efficient and easier, to avoid the involvement of state bodies, to decrease the corruption, etc.

Recent changes in the construction field in Kazakhstan include the following:

- As from 2015, it is possible to apply to the construction the Eurocodes (instead of the SNIPs – the construction rules which were established in the Soviet Union). This is a part of a construction regulation reform in Kazakhstan, that includes the following stages: 2011 - 2014 – Eurocodes’ adaptation period,; 2015 - 2020 – period of joint application of both Eurocodes and Kazakhstani construction terms and rules; and 2021 - 2025 – the generalisation of application and adjustment of the new regulatory framework. Thus, after 2025 (when all of the Soviet Union construction rules will no longer apply), the construction in Kazakhstan is planned to be carried out under Eurocodes;
- The role of the engineer in the construction has increased as against 2015. Previously, there was no project management, financial control rights, and other things already existing in the FIDIC;

- Now almost all construction specialists, including engineers, design developers and on-site control specialists, are obliged to pass a local (Kazakhstan based) attestation (to prove their qualification) to work under construction projects in Kazakhstan. There is an available on-line database where it is possible to check the list of people who passed the attestation;
- As from 2016, there is no state commissioning for constructed objects. The commissioning procedure has become easier and faster;
- As from 2016, the state is not responsible for the construction quality. Previously, the commission for building commissioning consisted of the local city administration, the employer, the contractor, the local construction control authority, and other related state authorities and public utilities suppliers. In case of a building collapse, the first responsible person brought to criminal liability was the city administration chief who signed the final commissioning act, the next liable person was the head of the local construction control authority. Now it is the employer and the project design developers and then the contractor who will be responsible for a building collapse and any other damages, if any;
- Before 2015, around 80% of all projects constructed in Kazakhstan were subject to the state construction expertise. As from the 2015, the state is planning to decrease the quantity of projects requiring their state construction expertise. This should be done in several steps. At the moment, fewer projects are subject to the state construction expertise.

Recent changes that are currently under discussion in Kazakhstan are regarding:

- minimising the state bodies' control over the construction process;
- decreasing, where necessary, the quantity of documents to be submitted at different stages of construction (e.g., the permit for construction, old construction rules, duplicating terms, etc.);
- making it easier to get the power connection for a new facility (in terms of the relevant permit, capacity, and regulation);

- alternative energy regulation;
- developing a solution for a case where all construction processes are digitalised (e.g., submission of all construction related documents in electronic format, etc.).

6. FIDIC CONSTRUCTION CONTRACTS IN THE REPUBLIC OF KAZAKHSTAN

FIDIC contracts are used in Kazakhstan in the construction of facilities on a “turnkey” basis. This includes the construction of: social projects related to sport, education and health care, infrastructure projects, production facilities, etc., especially when it is important for an employer to achieve a certain result, to control financial issues and to ensure the subsequent efficient operation of a constructed facility.

The government, when acting as an employer, often faces a situation where a facility constructed by a local one-day contractor(s) causes losses after a short period of its operation and it is almost impossible to demand such a contractor to eliminate his failures/shortcomings either because it is either a fly-by-night company or because it simply does not have enough skills to do such work.

To address these issues, many efforts were taken. For example, the Ministry of Transport and Communications of the Republic of Kazakhstan, starting from 2006, repeatedly recommended hiring contractors and engineers under the FIDIC proforma when tendering for the road and infrastructure construction. This resulted in large international construction firms with adequate qualification and experience taking part in the bids. One important point to note here is that construction contracts procured under FIDIC forms could be governed by the laws of the Republic of Kazakhstan if the parties wish so.

To note are also certain rules related to the construction, directly contained in the legislation of the Republic of Kazakhstan, which are often mandatory. If a construction contract is signed based on the FIDIC and is governed by the laws of the Republic of Kazakhstan, the lawyers and engineers from other jurisdictions should pay particular attention to mandatory rules of the national legislation – if it is a mandatory rule, then such mandatory rule prevails regardless of what is included in the contract.

FIDIC contract structure

The structure of FIDIC forms of construction contracts suggests that the contract represents a text on one page (named the Contract Agreement), indicating the project name, the names of the parties thereto, and the parties' agreement in principle to implement certain work. The scope of work, the name of the facility, and the term, total cost and payment procedure in respect of the project/work are specified in annexes to the Contract Agreement and other documentation. This approach is contrary to the mandatory rules of the Republic of Kazakhstan since it is mandatory thereunder to specify the material terms and conditions of a contract in the contract itself. Thus, it is mandatory to include all material terms and conditions of a contract into the contract itself and not only into annexes to the Contract Agreement.

Risks

Risk of accidental loss of works rests with the contractor. It is a mandatory rule, save for the following: a contractor is entitled to demand a revision of an estimate under the contract if, due to circumstances beyond its control, the cost of works exceeds the estimate by at least 10%. In other words, if such excess is, for example, 3% or 9%, and the need to increase the cost of works was caused by business risks of the contractor, then the contractor is not entitled to demand any revision of the cost of works under the contract. A contract may contain a clause allocating all possible construction risks to the contractor. These construction risks include, for example, the cost of restoration work caused by force majeure. To avoid the application under legislation of the Republic of Kazakhstan of such broad interpretation, it is necessary to know it when drafting the particular conditions of a FIDIC contract.

Once the employer accepts the interim stages (parts) of works, it bears the risk of any loss or damage caused not through the fault of the contractor. This includes cases where the contract places risk of the performance of the works in question on the contractor.

Additional works

If, during the course of construction, the contractor finds out there is a need for additional work which is not covered by the design and estimate docu-

mentation and that this would increase the estimated cost, then it has to inform the employer. There are terms in the FIDIC forms that already cover such issues but you will have to amend them taking into account the following mandatory rules operating in Kazakhstan:

- If the contractor fails to get a response to its request from the employer within ten (10) days (another term can be provided by the FIDIC particular conditions), it may suspend the relevant work, with the allocation of losses caused by downtime at the expense of the employer.
- If the contractor fails to perform its obligation to inform the employer of the need for additional work and resultant increase in estimated cost, it shall not be entitled to demand that the employer pay for additional work and compensation. However, the stipulation does not apply if the contractor has proved the need for immediate action done in the employer's interest where suspension of work could lead to the destruction or damage of the facility under construction.
- If the employer agrees the additional work to be executed by the contractor and agrees to pay for it, the contractor is entitled to refuse to perform these works, but only in cases when the work is beyond the scope of its professional activities or cannot be performed due to reasons beyond its control.

Control and oversight by the employer

The employer is entitled under the national legislation to exercise control and oversight of the progress and quality of work performed; the compliance with the deadlines and schedules; the quality of materials provided by the contractor, as well as the correct use by the contractor of the employer's materials; whilst not interfering with the contractor's activities. In recent changes of legislation of the Republic of Kazakhstan, there are some obligatory terms for parties and the engineer. Thus, we would recommend specifying such control in detail in the FIDIC particular conditions. It is important that the control exercised by the employer does not hinder the contractors' work.

If, whilst exercising its right to control and oversight of the works, the employer reveals any deviations from the terms and conditions of the contract which may impair the quality of works, or other shortcomings, it shall imme-

diately inform the contractor. If the employer fails to inform the contractor, it will lose its right in the future to refer to the shortcomings. Such limitations contradict some fundamental points when using, for example, the FIDIC Red or Silver books.

The employer is obliged to provide the on-site supervision and author supervision companies with proper conditions for work execution. It is not specified what exactly conditions should be provided as a minimum. We recommend to frame it by particular conditions.

Time frames for obtaining necessary design documentation approvals from the state authorities

In Kazakhstan, obtaining necessary design documentation approvals from the state authorities could take longer than usually required, in particular, for a party that works in Kazakhstan for the first time.

Common law clauses

The terms, such as “*reasonable efforts*”, “*applicable*” and “*acceptable*”, are common clauses used in English law contracts that are often not commonly used or recognised terms in legislation of the Republic of Kazakhstan. Thus, we recommend that these terms be explained to your partner in Kazakhstan in order to clarify in the FIDIC particular conditions what is meant by this wording, as in some cases, it is better to determine these common terms in a more detailed way.

Language

Sub-Clause 5.2 of the FIDIC form (“Silver Book”) states: Unless otherwise stated in the Employer’s Requirements, the Contractor’s Documents shall be written in the language for communications defined in Sub-Clause 1.4.

It is mandatory in Kazakhstan to identify that the Technical, As-Built and other Documentation be in the Russian language. In some regions of Kazakhstan, it should be in the Kazakh language as well. Otherwise, this might entail a suspension and delay in passing some obligatory state construction procedures and control stages. If the parties to the contract decide that documents should be submitted in two or more languages, then we recommend that the parties identify the prevailing language.

SECTION 2.
THE REPUBLIC OF BELARUS

THE REPUBLIC OF BELARUS

Contents

DEFINED TERMS	60
1. ORGANIZATION OF GENERAL CONTRACTOR ACTIVITIES IN THE TERRITORY OF THE REPUBLIC OF BELARUS	64
1.1. Carrying out activities via incorporation of a Belarusian legal entity	64
1.2. Carrying out activities without incorporation of a Belarusian legal entity	69
1.2.1. Representative office of a foreign entity	70
1.2.2. Settlement of payments in Belarus: opening a bank account	72
1.3. Requirements for construction activities as a general contractor in the Republic of Belarus	74
1.3.2. Compliance certificate	81
2. PROJECT DOCUMENTATION DEVELOPMENT PROCEDURES IN THE REPUBLIC OF BELARUS	84
2.1. General requirements for project documentation development ...	84
2.2. Harmonisation / expert reviews / approval of project documentation	97
3. PROCEDURES PERTAINING TO BUILDING/CONSTRUCTION PROJECTS IN THE REPUBLIC OF BELARUS	99
3.1. Construction milestones	99
3.2. Peculiarities of production infrastructure projects	107
4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF CONSTRUCTION CONTRACTS WITH NON-RESIDENT GENERAL CONTRACTORS	110
4.1. Sub-contractor contracts: peculiarities of settlement procedures with sub-contractors under concluded contracts	110
4.2. Employer contracts: peculiarities of materials/equipment delivery by General Contractors into the territory of the Republic of Belarus from abroad	113

5. REFORM OF THE CONSTRUCTION INDUSTRY: CURRENT OUTCOMES AND FORTHCOMING DEVELOPMENTS.....	114
6. FIDIC CONSTRUCTION CONTRACTS IN THE REPUBLIC OF BELARUS.....	117

DEFINED TERMS**The list of used abbreviations:**

General Contractor	a non-resident general contracting entity
ICS	Industrial Control System
QMS	Quality Management System
LSMS	Labour Safety Management System
TRLAs	Technical regulatory legal acts
BU	basic unit
VAT	a value added tax
Subsidiary (company)	a legal entity created in the territory of the Republic of Belarus by General Contractor
FIDIC	the International Federation of Consulting Engineers

Definitions of used regulatory legal acts:

TC	Tax Code of the Republic of Belarus dated 29 December 2009 No. 71-3
External Labour Migration Law	Law of the Republic of Belarus “On External Labour Migration” dated 30 December 2010, No. 225-3
Law No. 300-3	Law No. 300-3 of the Republic of Belarus “On Architectural, Urban Planning and Construction Activities in the Republic of Belarus” dated 05 July 2004
Edict No. 26	Edict of the President of the Republic of Belarus “On Improvement of Building and Construction Activities” dated 14 January 2014, No. 26
Decree No. 7	Decree of the President of the Republic of Belarus “On the Development of Entrepreneurship” dated 23 November 2017, No.7

- Directive No. 8** Directive of the President of the Republic of Belarus “On Priority Growth Directions in the Construction Industry” dated 04 March 2019, No.8
- Edict No. 178** Edict of the President of the Republic of Belarus “On Procedures and Control of Foreign Trade Operations” dated 27 March 2008, No. 178
- Rules No 72** Rules for Currency Transactions, as approved by Decree of the National Bank of the Republic of Belarus dated 30 April 2004, No. 72
- Regulation No. 716** Regulation on the Commissioning of Construction Projects, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 06 June 2011, No. 716
- Rules No. 1450** Construction Contract Rules, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 15 September 1998, No. 1450
- Rules No. 297** Design Works, Survey Works & Designer Supervision Contract Rules, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 01 April.2014, No. 297
- Regulation No. 252** Regulation on the certification of legal entities and individual entrepreneurs carrying out particular types of architectural, urban planning and construction activities (or their integral parts), works in inspection of buildings and facilities, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 21 March 2014, No. 252
- Decree No. 25** Decree of the Ministry of Architecture and Construction of the Republic of Belarus “On Some Issues of Certification of Legal Entities and Individual Entrepreneurs Carrying Out Particular Types of Architectural, Urban Planning and Construction Activities (or Their Integral Parts), Works in Inspection of Buildings and Facilities” dated 02 May 2014, No. 25

Decree No. 15	Decree of the Ministry of Architecture and Construction “On Some Issues of Certification of Executives, Specialists and Individual Entrepreneurs Involved in Architectural, Urban Planning, Construction and Survey Activities” dated 26 March 2014, No. 15
Regulation No. 450	Regulation on the licensing of particular types of activities, as approved by Edict of the President of the Republic of Belarus “On the licensing of particular types of activities” dated 01 September 2010, No. 450
Regulation No. 408	Regulation on the establishment and activities of representative offices of foreign entities in the Republic of Belarus, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 30 May 2018, No. 408
TR 2009/013/BY	Technical regulations of the Republic of Belarus “Buildings and Structures, Construction Materials and Products. Safety”, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 31 December.2009, No. 1748
STB ISO 9001-2015	State standard ISO 9001-2015 “Quality Management Systems. Requirements”
Conformity Assessment Rules	Conformity Assessment Rules of the National Conformity Assessment System of the Republic of Belarus, as approved by Resolution of the State Standardisation Committee of the Republic of Belarus dated 25 July 2017, No. 61
Labour Safety Law	Law of the Republic of Belarus “On Labour Safety” dated 23 June 2008, No. 356-3
Labour Safety Rules	Rules concerning labour safety during building/ construction works, as approved by Resolution of the Ministry of Labour and Social Protection of the Republic of Belarus and the Ministry of Architecture and Construction of the Republic of Belarus dated 31 May 2019, No. 24/33

- Regulation No. 223** Regulation on the procedures pertaining to the preparation and issuance of authorisations for construction projects, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 20 February 2007, No. 223 “On Some Measures to Improve Architectural and Construction Activities”
- Regulation No. 1476** Regulation on the procedures pertaining to the preparation, harmonisation and approval of town-planning designs and project documentation, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 08 October 2008, No 1476
- Regulation No. 791** Regulation on the procedures pertaining to state expert reviews of town-planning/architectural/ construction designs, related construction phases, launch phases and estimate documentation, as approved by Resolution of the Council of Ministers of the Republic of Belarus dated 30 September 2016, No. 791
- Recommendations No. 26** Methodological recommendations on investor procedures pertaining to concurrent engineering and construction in specific cases specified by the President of the Republic of Belarus, as approved by Resolution of the Ministry of Architecture and Construction of the Republic of Belarus dated 04 September 2015, No. 26
- TCP 45-1.03-122-2015** TCP (Technical Code of Common Practice) 45-1.03-122-2015 “Standard periods of construction of buildings/structures/complexes. Main provisions”
- STB 2331-2015** STB (State Standard of the Republic of Belarus) 2331-2015 “Buildings and structures. Classification. Main provisions”
- TCP 45-1.02-295-2014** TCP (Technical Code of Common Practice) 45-1.02-295-2014 “Construction activities. Design documents. Structure and contents”

1. ORGANIZATION OF GENERAL CONTRACTOR ACTIVITIES IN THE TERRITORY OF THE REPUBLIC OF BELARUS

A General Contractor may choose between one of the following two available options of doing business in the Republic of Belarus:

via a Belarusian subsidiary incorporated by such General Contractor; or

- without incorporation of a legal entity (i.e. directly as a non-resident entity).

1.1. Carrying out activities via incorporation of a Belarusian legal entity

Before incorporating a subsidiary, you must first choose its legal form.

The following are the most popular business legal forms in the Republic of Belarus:

unitary enterprise (UE);

- limited liability company (LLC);
- closed joint-stock company (CJSC).

Table 1.
Description of most common legal forms of commercial entities

No.	Aspects compared	UE	LLC	CJSC
1	Minimum size of statutory fund	The minimum size of statutory fund is not stipulated by law. The founders are entitled to define the size of the statutory fund at their own discretion.		100 BUs (or around US\$1,250 as of the date hereof)

No.	Aspects compared	UE	LLC	CJSC
2	Number of members	1	from 1 to 50	
3	Property	The property is owned by the founder(s) of the UE, while belonging to the UE on the basis of economic control rights	The property is owned by the LLC itself; the LLC members have the property rights to their shares in the statutory fund.	The property is owned by the CJSC itself; the shareholders have the property rights to their shares.

No.	Aspects compared	UE	LLC	CJSC
4	Change of members (sale of business)	To change the founder(s), it is necessary to register the UE as a property complex before the related purchase and sale.	1. Any change in the membership is formalised via the sale of a share in the LLC's statutory fund and the state registration of amendments to the articles of association with the registration authority. 2. A new member can be admitted on the basis of its request and its contribution to the LLC's statutory fund. Amendments to the articles of association must be registered with the state registration authority.	Any change in shareholders is formalised by a share purchase and sale agreement and must be registered with a professional securities market participant. No state registration of a change in shareholders in the articles of association is required.
5	Resignation from membership on the basis of application	Not applicable	Any participant may resign from its membership on the basis of an application for resignation at any time and regardless of approval by the other participants.	A shareholder may not resign on the basis of its application to resign.

No.	Aspects compared	UE	LLC	CJSC
6	Specific advantages/ disadvantages	<p>1. Possibility to transfer the property within one owner;</p> <p>2. Complexity of founder's change (business sale)</p>	<p>1. A specific nature of these legal forms allows making decisions at a general members'/ shareholders' meeting if the meeting is quorate. A meeting is deemed to be quorate if its participants/shareholders have collectively more than 50% of the total votes held by the participants/shareholders, unless the LLC's or CJSC's articles of association stipulate a bigger amount of votes for a quorum.</p> <p>If there is no specified quorum, an annual meeting shall be held, and an extraordinary meeting may be held as a recurring meeting with the same agenda. A recurring meeting will be quorate if its participants have collectively more than 30% of the total votes, unless the articles of association stipulate a bigger amount of votes for a quorum.</p> <p>1. Where 50% of the votes plus one vote are controlled by one person, such person makes decisions on most issues, except for those defined by the legislation and the LLC's articles of association.</p>	<p>1. This business legal structure is useful for majority shareholders, as there is a possibility of controlling the company having 75% of CJSC's shares.</p> <p>2. Withdrawal is restricted.</p>

No.	Aspects compared	UE	LLC	CJSC
			<p>2. Articles of association may contain a clause on the distribution of votes and/or income differently than provided for by the legislation (disproportionately as to shares in the statutory fund, etc.).</p> <p>3. A participant may be excluded only through legal proceedings upon demand of other participants whose shares must collectively amount to not less than 10% of the LLC's statutory fund and where such participant has violated its obligations or where its actions have impeded the LLC's activities.</p>	

The main disadvantage of carrying out construction activities via a newly incorporated Belarusian entity is that you will not be able to confirm your experience in developing similar construction projects which is required for a compliance certificate of categories 1 and 2. The relevant experience of your parent company will not be taken into account.

1.2. Carrying out activities without incorporation of a Belarusian legal entity Foreign companies are entitled to carry out activities directly in Belarus on an equal basis with legal entities of the Republic of Belarus. However, apart from the basic requirements imposed on construction companies, there are additional peculiarities of foreign legal entities' business that should be taken into account.

The main peculiarity is a specific procedure for the payment of taxes and duties, which depends upon the duration of contracting entity's activity in the territory of the Republic of Belarus.

In case where a foreign legal entity carries out its activities within a specified period (which, as a rule, is not more than 180 days during any 12-month period), it is not required to be registered with the tax authorities of the Republic of Belarus and directly pay taxes (duties) in Belarus. In such case, Belarusian legal entities or individual entrepreneurs (construction owners) accruing and/or paying income to a foreign entity are obliged to calculate, withhold and pay to the budget the tax on income of foreign companies which do not carry out activities in the Republic of Belarus via a permanent tax establishment. At that, the International Treaties of the Republic of Belarus on Avoidance of Double Taxation generally stipulate that income of entities with permanent place of performance in a country is subject to taxation in such country only. Consequently, where foreign companies carry out activities in Belarus within a short-term period, even the tax on income of foreign companies may be not payable to the budget of the Republic of Belarus. In order to secure a tax exemption in Belarus, foreign companies must submit to the Belarusian tax authorities a document confirming their permanent place of performance in the respective countries, issued by the authorised bodies of such foreign countries.

However, if a foreign entity carries out activities and/or renders services in the territory of the Republic of Belarus within at least 180 days continuously or cumulatively during any 12-month period which starts or ends in a respective tax period, then the place of such works/services is deemed to be its tax (permanent) representative establishment. Also, a construction site, installation or assembly project are deemed to be a permanent establishment of such foreign entity from the date of its existence, if such site/project exists in the territory of the Republic of Belarus within a period exceeding 180 days in any 12-month period.

The International Treaties on Avoidance of Double Taxation, executed by the Republic of Belarus, may stipulate other (longer) terms for a construction site to be deemed a permanent establishment. If so stipulated, the provisions defined by the International Treaty on Avoidance of Double Taxation, executed between the Republic of Belarus and the country of tax residence of such foreign entity, must apply.

Table 2.
**Terms for a construction site to be
deemed as a permanent establishment of a foreign entity**

Country	Time frame for a site to be deemed as a permanent establishment of a foreign entity
Russia	No special term is defined (a general term of 180 days applies).
Latvia	6 months
Lithuania	12 months
Germany	12 months
Czech Republic	12 months
Spain	12 months
China	18 months
Great Britain	24 months

Where a foreign entity has a permanent establishment, such foreign entity must be registered with the tax authorities of the Republic of Belarus and on its own behalf accrue and pay the relevant taxes (the income tax and the VAT) in the Republic of Belarus. As a rule, pursuant to foreign laws, the amount of taxes paid to the Belarusian budget will be offset against tax payments to be made by such foreign contracting company in the respective foreign country with regard to its income received in the Republic of Belarus.

1.2.1. Representative office of a foreign entity

A representative office of a foreign entity (to be distinguished from a permanent establishment) is a standalone subdivision of a foreign entity, located

in the territory of the Republic of Belarus, protecting and representing the interests of such foreign entity. The establishment of a representative office requires an approval by the relevant local executive body (*i.e.* the regional executive committee or the Minsk municipal executive committee, subject to the location of the representative office).

The following are the advantages of establishing a representative office of a foreign entity in the territory of the Republic of Belarus:

- availability of a permanent office with a permanent staff in the Republic of Belarus;
- unhampered employment of Belarusian nationals by a foreign entity's representative office;
- foreign nationals (particularly, heads of representative offices) may work without registration and/or special permits; and
- particular issues regarding a foreign entity's business related to its representation, negotiation process and communication with the government agencies can be settled swiftly.

The following peculiarities apply to doing business via a representative office of a foreign entity:

1) A representative office of a foreign entity is not a legal entity and may be established only to enable it to perform, in the name and on behalf of the represented foreign entity, any preparatory and ancillary activities. Consequently, a representative office is prohibited from conducting entrepreneurial activities. Such activities may only be conducted by the foreign entity itself;

2) The foreign entity will be registered with the tax authorities both at the location of its representative office and at the location of its entrepreneurial activities (*i.e.*, at the location of the construction site);

3) Both the business accounting and the tax accounting will be maintained separately for the representative office and for foreign entity's entrepreneurial activities in the Republic of Belarus;

4) Only employees whose functions are within the scope of preparatory and ancillary activities, i.e. the head of the representative office, its chief accountant, etc., will be included in the representative office's staff.

Permit for the establishment of representative office: the permit is initially issued for 3 years and may thereafter be prolonged an unlimited number of times for the same period.

Time frame for entire procedure: In practice, the establishment of a representative office takes minimum six weeks (the local executive body may prolong the standard 4-weeks duration of review up to 2 months where it has to make additional inquiries).

Thus, subject to the foregoing, a foreign (non-resident) company does not require a representative office for its full-fledged business operations in Belarus. It will suffice for it to register a permanent establishment with the Belarusian tax authorities.

1.2.2. Settlement of payments in Belarus: opening a bank account

In order to make settlements related to activities carried out in the Republic of Belarus, the General Contractor is entitled to use its bank accounts opened with foreign banks.

A General Contractor may open an account with a Belarusian bank and use it, *inter alia*, for settlements with contracting parties under concluded general contractor agreements and/or sub-contractor agreements.

If a foreign entity carries out its activities through a permanent establishment, an account with a Belarusian bank will be opened in the name of such foreign entity. Pursuant to clause 42 of Rules No. 72, a non-resident company may open bank accounts both in a foreign currency and in Belarusian rubles.

An entity may use its current bank account(s) for the following transactions:

- crediting monetary funds received in the account holder's name to its account;

- transferring monetary funds from the account to other individuals and legal entities, including banks and/or non-bank financial institutions;

- disbursing cash from the account; and
- other transactions, as stipulated by legislation or a current account agreement to which it is a party.

Pursuant to clause 44 of Rules No. 72, there are no restrictions as to the types of transactions and, specifically, in respect of foreign exchange operations and securities transactions, pertaining to transactions of a non-resident entity in a foreign currency via its current account.

Thus, to carry out its entrepreneurial activities through a permanent establishment, a non-resident entity may open a current bank account and use such account for settlements with its sub-contractors and employers and other individuals and legal entities and for paying taxes which are payable due to the fact that entrepreneurial activities are carried out in the Republic of Belarus.

To open an account with a Belarusian bank in the name of a foreign entity or in the name of a foreign entity's representative office established with the relevant executive committee's authorisation, such foreign entity must issue a notarised power of attorney to its authorised representative. Such power of attorney must specify the respective power to open such account(s).

The list of other documents required for opening a current account is specified by regulatory acts of a bank with which a foreign entity opens its current account.

If a foreign entity carries out its activities both through its representative office established with the executive committee's authorisation and through a permanent establishment at the location of the construction site, such foreign entity may, for ease of settlements, open several current accounts as follows: for the purposes of General Contractor's activities in Belarus and for the purposes of activities of such representative office.

Table 3.
Foreign entity's account terms

Account type	Account purpose
Bank account opened for General Contractor's own needs	1. Settlements under transactions with foreign entity's employers, sub-contractors and other counterparties 2. Tax payment
Account opened for the purposes of a foreign entity's representative office established with the executive committee's authorisation	1. Payments connected with activities of the foreign entity's representative office (preparatory and ancillary functions), including salary payments to regular employees, rental payments for office premises, etc.; 2. Tax payments for the foreign entity pursuant to clause 23 of the TC, qualifying a representative office of a foreign entity as a tax agent of such entity. <i>Note:</i> Monetary resources received from a foreign entity form the source of funds on such account. Therefore, any expenditures from a representative office's account require their compliance with cost estimates approved by the foreign entity.

1.3. Requirements for construction activities as a general contractor in the Republic of Belarus

The requirements for participants in building and construction activities in the Republic of Belarus are mainly specified by the following laws and regulations: Edict No. 26, Rules No. 1450, Regulation No. 450, Regulation No. 252, Regulation No. 25, Decree No. 15, Labour Safety Law, and Labour Safety Rules.

Based thereon, to obtain the status of a General Contractor in the Republic of Belarus, an applicant must have:

- certified staff employees; and
- an organised system ensuring the labour safety.

Moreover, a General Contractor must obtain the following certificates/permits for construction activities in the territory of the Republic of Belarus:

1) a certificate of technical competence proving that the relevant entity has a production control system;

2) certificates of compliance confirming compliance of construction works with applicable safety requirements;

3) a quality management system (licensed or unlicensed, subject to complexity class of the object of construction works);

4) a license for construction and assembly works in a particular type of construction works, or a license for design/assembling/servicing of **potentially hazardous projects**; and

5) a compliance certificate of a legal entity of a respective category, subject to complexity class of the object of construction works.

Table 4 below provides a structured description of each of the above certificates/systems.

Table 4.
Requirements imposed on General Contractors in the Republic of Belarus

Criteria	Certificate of technical competence	QMS Certificate	Certificate of compliance with safety requirements	License	Compliance certificate
When re-quired?	For any type of construction activities	A QMS li-censed within the national conformity assessment system of Belarus for compliance with STB ISO 9001-2015 is required for performing works in projects under complexity classes 1 & 2; When performing works as a General Contractor in projects under complexity classes 3 & 4, QMS may be unlicensed .	A General Contractor by its own efforts performs works as listed in Annex 1 to TR 2009/013/BY.	Design, assembling, setting-up, maintenance, technical diagnosis, reparation of potentially hazardous infrastructure units, technical devices, components of oil/gas transfer pipelines, oil product pipelines, gas distribution/gas consumption systems, etc. (Regulation No. 450).	Acting as a General Contractor or a Contractor in projects under complexity classes 1 to 4.

Assets required	<p>1. A business unit (or a group of persons) exercising control over the quality of works performed.</p> <p>2. Certified staff employees: chief engineer and construction managers/ foremen.</p> <p>3. StroyDocOnline information retrieval system or printed technical regulations.</p> <p>4. Measuring equipment and control devices that have passed calibration tests in the Republic of Belarus.</p>	<p>1. A business unit or an employee assigned by a CEO's order as responsible for QMS.</p> <p>2. A tailored quality guide-book.</p> <p>3. Other requirements as specified by STB ISO 9001-2015.</p>	<p>1. A certificate of technical competence;</p> <p>2. Measuring equipment and control devices (the same as for the certificate of technical competence).</p> <p>3. Certified staff employees: chief engineer, construction managers, and foremen.</p> <p>4. StroyDocOnline information retrieval system or printed technical regulations.</p> <p>5. A quality control system on works performed.</p> <p>6. Technical aids required for work delivery.</p> <p>7. Qualified operating personnel.</p> <p>8. Flow diagrams for construction works.</p>	<p>1. At least 3 employees (technical managers, specialists, workers) in the General Contractor's staff whose qualifications meet the requirements established by industrial safety laws.</p> <p>2. Engineering base and production facilities (premises, equipment, measuring devices) complying with state standards, norms and regulations in the sphere of industrial safety.</p> <p>3. Own duly accredited laboratory to control metal and welded joints when performing works and/or rendering services in the diagnostics of technical devices.</p> <p>4. Relevant quality control systems to monitor licensed activities and staff training (re-training).</p>	<p>See the requirements for obtaining a compliance certificate subject to project complexity class in table 5 below.</p>
------------------------	--	---	---	--	--

	<p>5. Working conditions (premises, transport, communication, etc.)</p> <p>6. QMS documents include the regulations on the production control system, the production control system passport, the incoming quality control regulations, etc.</p>				
Issuing authority	<p>NUE "BelStroy-Centre", NUE "Sertis", NUE "StroyTech-Norm", state enterprise "Stroy-MediaProyekt", PJSC "Stroy-Complex", state enterprise "NI-ISM", NUE "Bel-NIIS Institute", state enterprise "BelDorNII", etc.</p>	<p>NUE "Stroy-TechNorm", NUE "Bel-GISS", NUE "Belarusian State Institute of Standardisation and Certification", SEE "National institute of higher education", CJSC "Technical institute of certification and testing".</p>	<p>NUE "BelStroy-Centre", NUE "Sertis", NUE "StroyTech-Norm", CJSC "Technical institute of certification and testing", NUE "Bel-NIIS Institute", etc.</p>	<p>Department for supervision of industrial safety under the Ministry of Emergency Situations (GosProm-Nadzor).</p>	<p>NUE "Bel-Stroy-Centre".</p>
Pendency time	<p>As determined by the controlling body. In practice, at least one (1) month.</p>	<p>As determined by the certifying body. In practice, at least one (1) month.</p>	<p>As determined by the certifying body. In practice, at least one (1) month.</p>	<p>15 working days. In practice, from one (1) to two (2) months.</p>	<p>one (1) month</p>

Fees	As determined under the ICS assessment contract, on the basis of the number of types of works and subject to the ICS assessment.	As determined by the contract concluded with the certifying body.	As determined by the contract on certification, on the basis of the number of types of works and subject to compliance certification.	10 BU* for filing an application. The fees for the expert review are stipulated by the expert review agreement according to types of works and subject to licensing.	As determined by the contract on certification, on the basis of the number of types of activities and subject to certification, as well as depending on the number of business units of the relevant legal entity (affiliates) as indicated in the compliance certificate together with the applicant applying for such certificate.
-------------	--	---	---	--	--

Effective period	5 years	5 years	5 years	unlimited	5 years
Liability for default	A fine of up to 100 Bus ^{**} ; however, without a certificate of technical competence, a compliance certificate (the basic construction permit) will not be issued.	No liability is stipulated, however, without a QMS certificate, a compliance certificate for category 1 & 2 will not be issued, and without a tailored quality guidebook and a person in charge of the QMS, a compliance certificate for category 3 & 4 will not be issued.	A fine of up to 100% of the cost of delivered works and, where such cost cannot be calculated – of up to 500 Bus ^{***} .	Either a fine of up to 500 BUs ^{***} with or without confiscation of revenue received through such activities, or the deprivation of the right to carry out certain activities.	Confiscation of all income received through business activities without a compliance certificate, excluding expenses, plus a fine of up to 500 BUs, with or without confiscation of instruments and means of administrative offence.

* – around US\$125 as of the date hereof;

** – around US\$1,250 as of the date hereof;

*** – around US\$6,250 as of the date hereof.

1.3.2. Compliance certificate

Requirements for the company's compliance certificate depend on **the complexity class of the project** being implemented by such company as General Contractor.

Construction projects categorised according to their complexity class are listed in the state standard STB 2331-2015. Designers use this standard to make a final determination of project complexity class when compiling the project documentation.

The requirements for applicants and holders of compliance certificates are specified by Regulation No. 25.

Table 5 below outlines the requirements to be met by an entity planning to act as General Contractor, depending on the class of projects to be implemented.

Table 5.
**Requirements to be met by General Contractor
to obtain a compliance certificate**

Criterion	Project complexity class 1	Project complexity class 2	Project complexity class 3	Project complexity class 4
Manning level	at least 400	at least 150	at least 50	-
Quantity of contracting entity's managers; their experience rate	at least three (3); specialised higher education, at least 5 years of work experience, primary employment	at least two (2); specialised higher education, at least 5 years of work experience, primary employment	at least one (1); specialised higher education, at least 5 years of work experience, primary employment	at least one (1); specialised higher education, at least 5 years of work experience, primary employment

Quantity of employees with a defined experience rate	½ of specialists and managers with at least 3 years of work experience in the construction sphere, primary employment	½ of specialists and managers with at least 3 years of work experience in the construction sphere, primary employment	½ of specialists and managers with at least 3 years of work experience in the construction sphere, primary employment	½ of specialists and managers with at least 3 years of work experience in the construction sphere, primary employment
Fixed assets which belong to the entity based on the right of ownership, the right of economic or operational management, or other legal rights	+ value: 100,000 BUs*	+	+	+
Managers (chief engineer, construction managers, foremen) having qualification certificates, with primary employment	+ additionally: budget officer and head of production & technical department	+ additionally: budget officer and head of production & technical department	+	+

Quality management system	+	+	+	+
	must be licensed to enable the entity to act as General Contractor	must be licensed to enable the entity to act as General Contractor		
Measuring and control devices required to monitor quality level of the specified type of construction activities	+	+	+	+
Labour safety system	+	+	+	+
Relevant experience	experience in the construction of projects of complexity class 1 or 2	experience in the construction of projects of complexity class not lower than class 3	-	-
Certificate of conformance of works and certificate of technical competence must be available	+	+	+	+

* around US\$1,250,000 as of the date hereof.

2. PROJECT DOCUMENTATION DEVELOPMENT PROCEDURES IN THE REPUBLIC OF BELARUS

2.1. General requirements for project documentation development

Design engineering is an integral part of construction activities, pursuant to article 1 of Law No. 300-3. Prior to preparing any project documentation, an employer must obtain specific permits and approvals from the local state authority, i.e. the relevant executive committee. Only such permits and approvals entitle employers to start design/survey and construction works at the site (article 21 of Law No. 300-3).

Ordering project documentation

Pursuant to clause 1 of Regulation No. 223, the following entities are entitled to apply to the executive committee for the respective permits/approvals:

- project owner (developer)
- General Contractor, in “turnkey” construction projects
- chief engineer (engineering entity), where an agreement for comprehensive engineering and management services has been concluded.

Table 6.
Persons involved in the design documentation process
(on the part of project owner)

<i>Person</i>	<i>Qualification test</i>	<i>Status confirmation</i>
Project owner	No certificate of compliance required	Project owner status is confirmed by respective authorisations.

Person	Qualification test	Status confirmation
General Contractor	Certificate of compliance for: <ul style="list-style-type: none"> - General Contractor's functions in a category corresponding to project's complexity class; - execution of individual work items; - design engineering, <i>if General Contractor prepares the design documentation independently.</i> 	General Contractor Agreement for "turnkey" construction projects, and a power of attorney.
Integrated construction management engineer	Certificate of compliance for integrated construction management engineering services.	Agreement on integrated construction management engineering services, and a power of attorney.

Project documentation development contractor

According to clause 1.6 of Edict No. 26, a design engineer involved in the development of project documentation for construction projects must have a certificate of compliance of a respective category corresponding to the project's complexity class. The design engineering for projects of complexity class 5 does not require a certificate of compliance.

Table 7 below outlines the existing types of certificates of compliance and the respective functions thereunder.

Table 7.
Design engineer's functions and required types of certificate of compliance

Design engineer's functions	Certificate of compliance types
General designer's functions	Certificate of compliance for general designer functions in a category corresponding to project complexity class enables to engage subcontractors to compile individual sections of project documentation
Preparation of individual sections of project documentation (however, a design engineer is not allowed to engage sub-contractors)	Certificate of compliance for the preparation of the following sections of the project documentation as per clause 3, Appendix 1, Resolution No. 252: <ul style="list-style-type: none"> - master plan - architectural solutions - cost estimating documents - construction solutions - indoor technical equipment and internal circuits/ systems - outdoor circuits/systems - engineering civil defence measures and emergency prevention measures - environment protection

Preparing project documentation

The project documentation can be prepared in one or two stages. The preparation technique must be specified in the design assignment.

The design assignment, according to paragraph 3, clause 7, Rules No. 297, may be prepared:

A) by the project owner. It is then furnished to the design engineer together with other basic data (if any).

B) by an engineer (engineering entity). In such case, the design assignment when prepared is furnished to the project owner for approval and thereupon is returned to the engineer to be furnished to the design engineer.

C) by the design engineer itself. The design assignment when prepared is also furnished to the project owner for approval and thereupon is returned to the design engineer.

Table 8 below provides a brief outline of all peculiarities of a project documentation development.

Table 8.
Project documentation development options

<i>Design technique</i>	<i>Implementation phases</i>
1-stage design	1) Construction design completion; 2) State expert appraisal of the construction design; 3) Favourable conclusion of state expert appraisal; and 4) Approval of design documentation.

<i>Design technique</i>	<i>Implementation phases</i>
2-stage design	<ol style="list-style-type: none">1) Architectural design development;2) Submitting the architectural design for state expert appraisal;3) Favourable conclusion on the architectural design;4) Elaboration of the construction design; and5) State expert appraisal of separate sections of the construction design (if required by the architectural design report).

Project documentation composition

The project documentation composition is set forth in section 5 of TCP 45-1.02-295-2014.

Table 9.
Architectural design composition
(architectural segment of the construction project)

For industrial purpose/ engineering infrastruc- ture projects	For housing/commer- cial projects	For the development of urban district/block, town complex, indus- trial/manufacturing site
<p>a) executive summary; b) master plan and transport; c) process designs; d) labour & working condition management; e) architectural/construction solutions with a bill of quantities; f) engineering equipment / utilities / systems; g) construction arrangement; j) environmental control; k) engineering civil defence measures and emergency prevention measures; l) cost estimating documentation (for budget-funded projects, or by employer's order); m) efficiency of investments or major technical/economic indicators (by employer's order); o) energy efficiency; p) anti-terrorist protection measures for buildings/structures specified in STB 2331</p>	<p>a) executive summary; b) master plan; c) architectural/construction solutions with a bill of quantities; d) process designs; e) engineering equipment / utilities / systems; f) environmental control; g) engineering civil defence measures; emergency prevention measures; j) construction arrangement; k) cost estimating documentation (for budget-funded projects, or by employer's order); l) anti-terrorist protection measures for buildings/structures specified in STB 2331</p>	<p>a) executive summary; b) master plan, internal and external utility networks, without plotting a longitude section; c) environmental control; d) engineering civil defence measures (according to design assignment); e) construction arrangement (according to design assignment); f) cost estimating documentation (according to design assignment).</p>

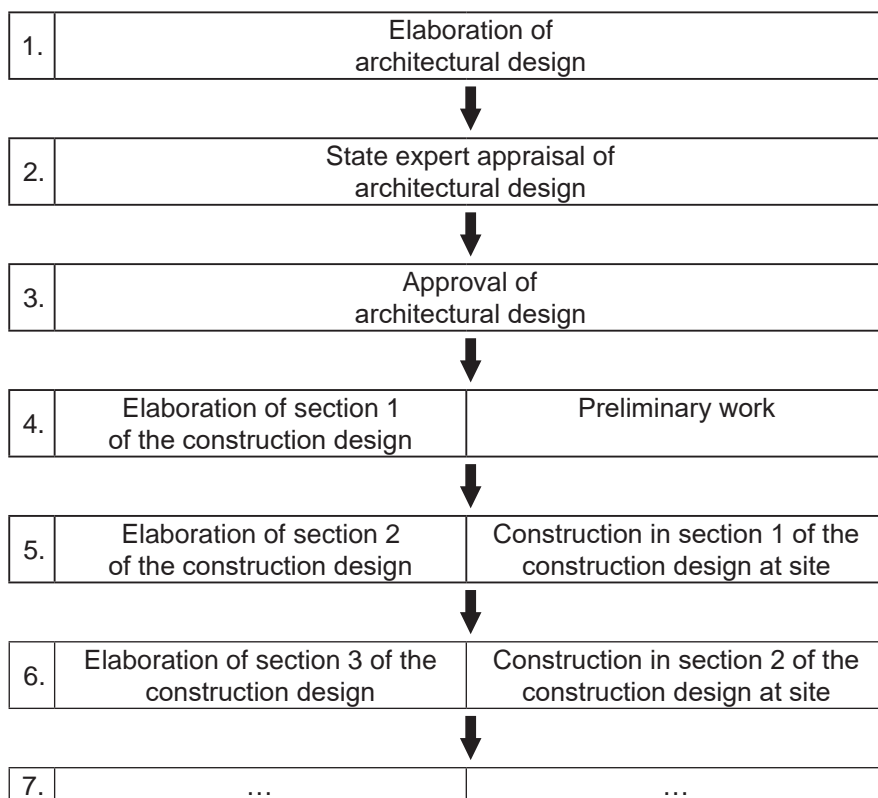
Таблица 10.
Составе of the construction design

<p style="text-align: center;">For the construction of one-family dwelling houses and two-family town houses in complexity class 5 under STB 2331</p>	<p style="text-align: center;">For the construction of non-residential permanent buildings in adjacent territories</p>	<p style="text-align: center;">For the reconstruction of isolated premises in apartment houses / town houses</p>	<p style="text-align: center;">For the demolition of buildings/ structures of complexity classes 1 to 4 under STB 2331</p>
<p>a) executive summary; b) master plan; c) architectural/ construction solutions with a bill of quantities; d) engineering equipment/ utilities/ systems; e) cost estimating documentation (for budget-funded projects, or by employer's order).</p>	<p>a) executive summary; b) master plan; c) architectural/ construction solutions with a bill of quantities (for budget-funded projects, or by employer's order); d) engineering equipment/ utilities/ systems (as required); e) cost estimating documentation (for budget-funded projects, or by employer's order).</p>	<p>a) executive summary; b) architectural/ construction solutions with a bill of quantities; c) engineering equipment/ utilities/ systems (as required); d) cost estimating documentation (for budget-funded projects, or by employer's order).</p>	<p>a) executive summary; b) master plan; c) environmental control; d) measurement operations with a bill of quantities; e) construction arrangement; f) cost estimating documentation.</p>

According to clause 5.2.3 of TCP 45-1.02-295-2014, where the project documentation is prepared in one (1) stage, the construction design includes the same sections as the architectural design stage.

The construction design must be elaborated to the extent required and sufficient for the execution of construction-assembly works. Some individual cases of concurrent design are excluded, as defined by the President of the Republic of Belarus or allowed on a preference basis by a number of special modes (construction activities under an investment agreement, activities in the Great Stone industrial park, etc.).

Concurrent design procedures (pursuant to Recommendations No. 26)



According to clause 4 of Recommendations No. 26, during the elaboration of sections, designers must observe the technological order of construction activities and the time frames determined for the entire project (or its parts).

Concluding a contract for project documentation development

The project owner/employer (or, on its behalf – the engineer/general contractor) and the design engineer are the contracting parties.

In order to conclude such contract, the parties must necessarily have all documents as listed in clause 8 of Rules No. 297. These documents include:

on the project owner's/employer's part:

- pre-project (pre-investment) documentation and permits/authorisations for the construction project (except where the elaboration of pre-project documentation is covered by the contract);
- minutes of the meeting of the tender committee on choosing the tender winner (where the tender is obligatory); and
- where a designer supervision contract is concluded – the approved project documentation;

on the contractor's (design engineer's) part:

- certificate of compliance of design assignment; and
- other documents, as required by employer.

According to clause 10 of Rules No. 297, the following are the essential provisions of the contract, the absence of which will render it lost:

- subject of contract, specifying the name and location of site/project for which design and survey works are performed;
- starting/completion dates for works contemplated by the contract (indicating the day, month and year), and, by agreement of parties, starting/completion dates for individual stages/phases of works (interim deadlines);

- contract price or price calculation technique;
- settlement procedure for the preparation of pre-project (pre-investment) documentation, project documentation and/or finished survey works, and/or designer supervision pertaining to construction activities;
- indication as to whether design/survey works have been completed by the contractor without sub-contracting or by sub-contracting;
- rights and liabilities of the parties, including those pertaining to the delivery of project documentation to the National Project Documentation Fund or the National Database of Construction Analogues and to the obtaining of state expert reports on such documentation;
- liabilities of the parties for any non-fulfilment or improper fulfilment of contractual obligations;
- contract modification/termination procedures;
- procedures and deadlines for handover of working results.

The remaining provisions can be included in the contract at the discretion and by agreement of the parties. If so included, the contract provisions must fully comply with applicable legislation of the Republic of Belarus, otherwise they might be held invalid.

Where a foreign legal entity is a party to such contract, the contract shall be compiled in the Belarusian or Russian language and, by agreement of the parties, in the language of such foreign legal entity (paragraph 2, clause 13 of Rules No. 297).

Dispute resolution

Table 11.

Dispute resolution options

Dispute resolution option		Procedure peculiarities	Comments
Pre-trial procedure	Negotiations	Allow prompt and cheap dispute resolution without engaging any third parties.	Negotiations are mandatory where stipulated by an agreement/ contract between the parties.
	Mandatory presentation of a claim prior to court action	A method of pre-trial dispute resolution. As a rule, the 'mandatory presentation of claim' procedure is obligatory prior to dispute resolution through a court.	This method is obligatory where agreement/ contract between the parties does not stipulate otherwise, <i>i.e.</i> the 'mandatory presentation of claim' procedure can be avoided by agreement of the parties.
Extra-judicial procedure	Mediation	A dispute resolution method using negotiations between the parties with the participation of a third party (mediator) that helps the parties to elaborate a mutually acceptable solution. This procedure may be applied prior to or after production in court.	The mediation procedure results in an agreement between the parties, which they undertake to perform.

Dispute resolution option		Procedure peculiarities	Comments
Judicial procedure	Examination of dispute in Belarus by a state court	<p>It allows an easier execution of decision (advantageous, if executed in Belarus). This is the cheapest option of dispute resolution through the court.</p> <p>Article 175 of the Commercial Procedural Code limits this procedure in terms of time (the case must be examined within at most 2 months, and in case the non-resident participant stays outside Belarus – within at most 7 months; in exceptional cases, the term may be prolonged up to 12 months), <i>i.e.</i> the judicial proceeding is limited in time.</p>	The general jurisdiction rule applies, as prescribed by article 39 of the Commercial Procedural Code.

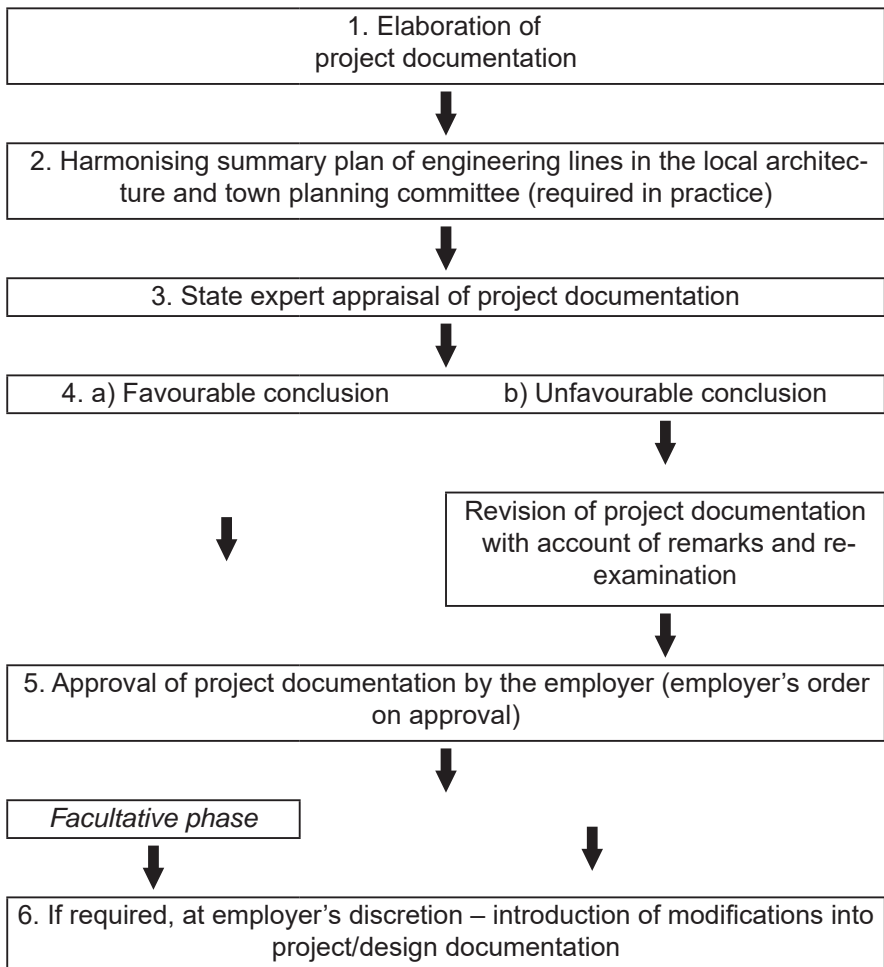
	<p>Examination of dispute in Belarus by the International arbitration court under the Belarusian chamber of commerce & industry (the IAC under the BelCCI)</p>	<p>Advantages:</p> <ul style="list-style-type: none"> - confidentiality - court independency and neutrality; and - conclusive decisions <p>Disadvantages:</p> <ul style="list-style-type: none"> - no mandatory deadlines are provided, <i>i.e.</i> the proceeding can take a lot of time; and - arbitration proceeding is more expensive than state court proceedings 	<p>Such arbitration may be applied if it is directly stipulated by an agreement/contract, pursuant to article 40 of the Commercial Procedural Code. A model arbitration clause* can be used.</p>
	<p>Examination of dispute outside Belarus by an arbitration court</p>	<p>Advantages:</p> <ul style="list-style-type: none"> - dispute will be examined in any arbitration body, provided an arbitration clause was inserted; - the parties may choose a neutral arbitration body; - impartial decisions <p>Disadvantages:</p> <ul style="list-style-type: none"> - no mandatory deadlines are provided, <i>i.e.</i> the proceeding can take a lot of time; and - foreign arbitration proceeding is more expensive than state court proceedings 	<p>This procedure may be applied only if at least one party is not a resident of the Republic of Belarus.</p>

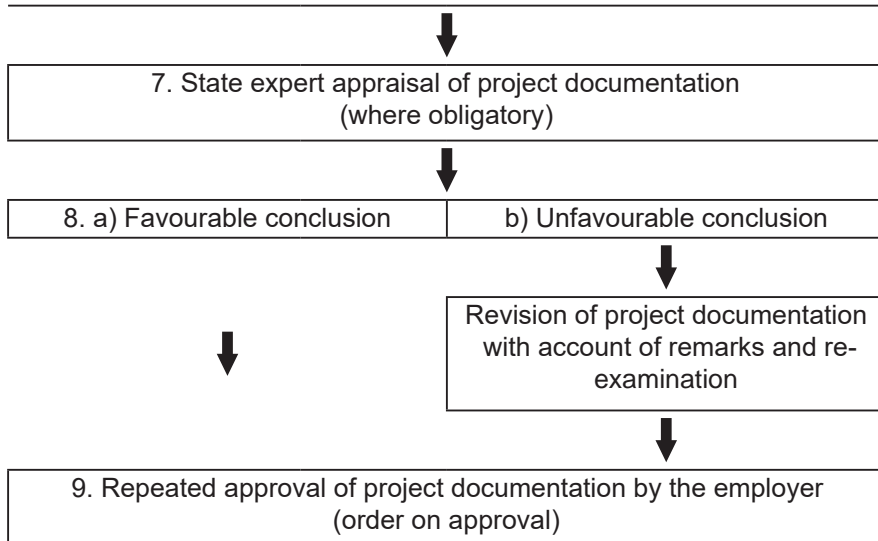
* A model arbitration clause: “Any and all disputes, controversies and claims arising from this agreement/contract or related to the violation, abrogation, termination, invalidity, or construal thereof shall be referred for final and conclusive solution to the International arbitration court under the Belarusian chamber of commerce & industry, pursuant to its Regulations”.

2.2. Harmonisation / expert reviews / approval of project documentation

All project/design documentation following completion are subject to the procedures of harmonisation, state expert appraisal and approval as follows:

Procedure scheme





Where any alterations must be introduced into the project/design documentation, it will require a repeated procedure of expert review and approval. However, the state expert appraisal is not obligatory in case of alterations relating to the replacement of construction materials, products or equipment by analogous materials/products/equipment produced in compliance with the applicable national standards of the Republic of Belarus, provided their use will not reduce the bearing capacity of buildings/structures and such replacement will not alter the project's technical-and-economic indicators (clause 7 Appendix 1 to Regulation No. 791).

In addition, pursuant to article 51 of Law No. 300-3, no alteration/amendment of approved architectural/construction design is necessary, where:

- estimated cost of construction is reduced, while other project's technical-and-economic indicators, as specified in the construction management plan (a component of project documentation) are not altered;
- any construction conditions as specified by the construction management plan (a component of project documentation) are modified, while construction periods and estimated cost are not increased, provided the labour safety, environmental safety and fire safety are properly secured;

- by results of tenders or other procurement procedures, any process/MEP equipment or materials are replaced, provided such replacement does not impact the project's technical-and-economic indicators, the labour safety, environmental safety and fire safety and does not entail any increase of the estimated cost; and
- finished construction projects are duly commissioned.

The validity period of state expert reports on project documentation equals to the rated construction period plus one year, pursuant to paragraph 3, clause 29 of Resolution No. 791.

A state expert report on project documentation will cease to be in force if construction-and-assembly works at the site are not commenced within 2 years upon its obtaining. Where a state expert report has become invalid, the project owner must undergo the state expert appraisal once again.

3. PROCEDURES PERTAINING TO BUILDING/CONSTRUCTION PROJECTS IN THE REPUBLIC OF BELARUS

3.1. Construction milestones

Building/construction activities in the Republic of Belarus comprise erection, reconstruction, repairs, restoration, capital improvement of buildings/structures, and conservation of unfinished buildings/structures. Building/construction managerial and engineering activities include engineering services, preparation of permits/authorisations/design documentation, execution of construction, installation/assembly and commissioning works, pursuant to article 1 of Law No. 300-3.

Construction process is normally divided into 9 phases:

Engaging engineer (at employer's option);

1. Pre-design study;
2. Obtaining permits/authorisations;
3. Elaboration of design documentation;

4. State expert appraisal;
5. Construction operations;
6. Commissioning;
7. State registration; and
8. Connecting project to supply systems.

Table 12 below outlines the construction phases for projects of complexity classes 1 to 5, especially highlighting the peculiarities of projects of class 5.

Table 12
Construction milestones

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Engaging engineer (at employer's option)	Engineer (an engineering entity) is a professional participant of construction activities specialising in construction process management on the employer's part. An agreement for integrated construction process management or an agreement for particular engineering services must be concluded. Such agreement must take into account the existing rules for engineering services agreements as approved by Resolution of the Ministry of Architecture and Construction of the Republic of Belarus dated 10 May 2011, No. 18.	This phase is often omitted, as the low complexity class allows dropping it for the sake of cost optimisation.

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Pre-design study	<p>Pre-design (pre-investment) study, as a rule, comprises three (3) stages, which are as follows:</p> <ol style="list-style-type: none"> 1) choosing a business idea, feasibility study, and shaping the investment project; 2) preparation of a declaration of intent by the employer (investor); and 3) elaboration and approval of the pre-design documentation. The pre-design documentation, pursuant to paragraph 1, clause 4.6 of TCP 45-1.02-298-2014, comprises: <ul style="list-style-type: none"> - investment substantiation and project management plan; - business plan (in specific cases); and - design assignment. 	<p>For projects of complexity class 5, this phase may be abridged to preparing only:</p> <ul style="list-style-type: none"> - design assignment according to the form specified by Annex E to TCP 45-1.02-298-2014.

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Engaging General Contractor (for "turnkey" construction projects) (at the employer's discretion)	<p>This phase allows concluding an agreement/contract with a construction contractor which will implement a "turnkey" construction project. According to clause 27 of Rules No. 1450, a General Contractor, in terms of its contractual obligations, must:</p> <ul style="list-style-type: none"> - obtain all source documentation, permits and authorisations; - procure proper implementation of design and construction works; - fulfil the management functions assigned to it under the contract; and - procure proper commissioning/start-up operations. 	This phase is often omitted as the low complexity class allows dropping it for the sake of cost optimisation or at the employer's discretion.

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Obtaining permits/authorisations for construction project	<p>To obtain the required permits/authorisations, the following stages/actions are required:</p> <ol style="list-style-type: none"> 1. The employer must apply to a local executive committee according to the location of the land plot (if any). List of required documents to apply: <ul style="list-style-type: none"> - application; - certificate of state registration; and - declaration of intent. <p><i>Note: In the absence of a land plot for the construction project, an application must be filed with a local executive committee according to the location of the potential land plot.</i></p> <ol style="list-style-type: none"> 2. The application will be examined by the executive committee; 3. The executive committee will issue an order to the Contractor Management Committee (or a local department for architecture and construction) for: <ul style="list-style-type: none"> - the preparation of the architectural planning assignment; and - the collection of data on technical conditions/specifications 4. The executive committee renders a decision on the approval of design/survey works and construction operations. <p>As a result, the applicant (employer) obtains (in various combinations):</p> <ul style="list-style-type: none"> - siting act (where preliminary approval of land plot location is required); - decision on land plot withdrawal and assignment (where a land plot is assigned to the applicant for construction purposes); - decision on the approval of design/survey works and construction operations; - architectural planning assignment; - technical conditions; and - technical specifications. 	

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Design	<p>1. The employer chooses a designer.</p> <p>A certificate of compliance of the same category or higher than project's complexity class is required.</p> <p>2. The employer concludes an agreement on survey works and designer supervision with the chosen designer.</p> <p>Contractual relations between employers and contractors (upon their consent) may be regulated by applying international standard contracts of the FIDIC, with due account for the requirements of applicable legislation and, specifically, Rules No. 297.</p> <p>3. The employer prepares, approves and delivers a design assignment to the designer.</p> <p>4. The designer prepares the design documentation in accordance with the design assignment.</p>	No certificate of compliance is required.
	State expert appraisal of design documentation	The design documentation is subject to state appraisal by the National Unitary Enterprise "GlavStroyExpertiza", according to the procedure established by Regulation No. 791.	Not required (cl. 5, Appendix 4, Regulation No. 791)

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Construction operations	<p>Set forth below are the stages required for construction operations:</p> <p>1. The employer chooses a contractor.</p>	
		A certificate of compliance of the same category or higher than project's complexity class is required.	No certificate of compliance is required.
		<p>2. The employer concludes a construction contract with the chosen contractor.</p> <p>3. The contractor carries out construction operations (without sub-contracting or through sub-contracting).</p> <p>4. Commissioning and connecting of the construction project to supply systems.</p> <p>5. The acceptance of the construction project by the employer under an acceptance report.</p>	

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Commissioning	<p>For commissioning of a construction project, the required stages/actions are as follows:</p> <ol style="list-style-type: none"> 1. The contractor gives notice of the date of construction completion. 2. An equipment acceptance board is formed. 3. Filing a commissioning application to the state supervision agency and furnishing required documents to the acceptance board. <p>Before the acceptance board starts its work, the employer or its authorised representative must file its application and other required documents to the state supervision agency.</p> <p>The list of documents to be submitted to the acceptance board on the part of the contractor is specified in Appendix 10 to Resolution No. 40 of the Ministry of Architecture and Construction, dated 06.12.2018. The list of documents to be submitted to the acceptance board on the part of the employer is specified in Appendix 11 to the above Resolution.</p> <ol style="list-style-type: none"> 4. Statements and reports of state authorities/institutions are delivered. 5. Checking whether the construction project actually complies with the design documentation, permits/authorisations and other specifications. 6. Acceptance board signs the commissioning certificate. 7. Approval of the commissioning certificate. 	
	State registration	<p>State registration of a new property unit and related rights requires the following:</p> <ol style="list-style-type: none"> 1. applying for technical inventory check; 2. preparing a package of documents required for state registration of a new property unit and related rights; and 3. obtaining the state registration certificate. 	

No.	Construction phase	Phase description for projects of complexity classes 1 to 4	Phase description for projects of complexity class 5
	Connecting the construction project to supply systems	During the final phase, agreements for the permanent supply of utilities (electricity, water supply, sewerage, gas supply, etc.) are concluded with utility providers.	

3.2. Peculiarities of production infrastructure projects

The construction of production infrastructure projects is generally the same as the construction of other projects and implies all the above-mentioned phases, from obtaining permits/authorisations to commissioning.

However, there are some peculiarities, for instance, in terms of commissioning of production infrastructure projects.

In particular, production infrastructure projects may be commissioned only after the equipment acceptance board has confirmed that all installed equipment is ready for operation (production of goods/services), according to the design documentation.

Such equipment acceptance board is appointed by the employer or its authorised representative.

The equipment acceptance board includes representatives of:

- the employer;
- the contractors, including those who carried out assembly and commissioning works;
- the designer;
- the operating entity (if any); and
- the equipment supplier/manufacturer (where required).

Moreover, the equipment acceptance board may, after consultation with other organisations and supervising agencies, include representatives of such organisations and supervising agencies.

Prior to the acceptance of equipment by the acceptance board, the contractor must run individual tests of separate machines, mechanisms and units installed at the site. The procedures for such tests are prescribed by the TRLAs.

Decisions of the acceptance board must be formalised by means of acceptance certificates, subject to comprehensive testing run in a manner approved by the respective resolution of the Ministry of Architecture and Construction.

During the commissioning of production infrastructure projects, the acceptance board also assesses:

- results of individual tests and comprehensive testing of equipment;
- the project's readiness for operation and release of products (execution of works, provision of services) in the volumes prescribed for the plant development during the initial operating period;
 - the availability of facilities securing proper labour conditions, according to applicable explosion/fire safety, industrial health and environment protection requirements; and
 - compliance with other requirements of the TRLAs.

An engineering infrastructure is the whole of utility networks, permanent buildings/structures, isolated premises and other facilities supplying utilities (water, energy, information and other communications and services) to consuming units and, where required, providing disposal of used resources (according to article 1 of Law No. 300-3).

Set forth below are some peculiarities of engineering infrastructure units as exemplified by utility networks (a component part of an engineering infrastructure).

Utility networks are usually permanent buildings/structures, namely line structures designed to transport liquids, gases, energy, information or communication signals.

As utility networks located indoors are integral components of the respective buildings/structures, they are usually constructed, commissioned, inventoried and registered as one construction unit. Outdoor utility networks may be regarded either as a component part of the consuming unit, or as a standalone unit.

The construction of a utility network as a component part of the main unit is not distinguished as an individual construction unit or a launch phase in the design documentation. Standalone utility networks are constructed as part of separate construction projects or separate launch phases.

Where utility networks are constructed as a component part of the main unit, the commissioning certificate is formalised for the entire construction unit (without considering the utility networks as a standalone unit). The commissioning is confirmed by the turnover documentation on utility networks to be furnished to the acceptance board by the employer and the contractor.

Where a utility network is a part of a launch phase, it will be commissioned in the procedure prescribed for the acceptance of the entire construction unit: separate acceptance certificates for each commissioned phase must be formalised.

Also, utility networks may be signed off to operating entities.

Thus, according to Edict dated 07.02.2006, No. 72, units of utility, transport or social infrastructure and other public amenities, where they have been completed but not registered as property units, may be transferred gratuitously to a government holding without formalising any documents confirming state registration of the respective rights/titles, by virtue of a deed of assignment of costs incurred in the erection of such unit and documents confirming the completion of construction and its compliance with the design documentation.

According to Decree No. 7, operating entities must, within three (3) months after commissioning of finished construction units not registered as property units, units of utility, transport or social infrastructure and other public

amenities, accept them gratuitously to a government holding and apply for state registration thereof.

4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF CONSTRUCTION CONTRACTS WITH NON-RESIDENT GENERAL CONTRACTORS

4.1. Sub-contractor contracts: peculiarities of settlement procedures with sub-contractors under concluded contracts

The procedure for formalisation of relations between a foreign entity (general contractor) and a Belarusian organisation (sub-contractor) has a number of peculiarities. These peculiarities result from a number of mandatory requirements of the existing laws of the Republic of Belarus, in the first place, of its laws on external economic activity, since all construction contracts concluded with sub-contractors are subject to the requirements of Edict No. 178.

Where Belarusian sub-contractors are engaged by General Contractor for any construction works, in negotiating the terms and conditions of construction contracts to be concluded, it is necessary to consider the following peculiarities resulting from the need to comply with the requirements of the legislation of the Republic of Belarus:

- the currency of settlements for works performed;
- the time frames of payments for works performed;
- the advanced payment conditions and procedure; and
- the possibility to use any guarantee retention mechanisms in order to ensure the proper quality of works performed.

Table 13 below specifies main points which should be considered in settlements with sub-contractors under existing contracts.

Table 13.
Peculiarities of settlement procedures with sub-contractors

Terms and conditions of construction contract	Legislative requirements	Possible options of actions
Currency of payment	As of the date hereof, there are no restrictions on the use of foreign currency for payments for performed works between a non-resident General Contractor and a resident sub-contractor, as well as between non-resident entities.	Payments for works performed by sub-contractors may be made either in Belarusian rubles, or in a foreign currency which has an official rate to Belarusian ruble, established by the National Bank of the Republic of Belarus (hereinafter the "National Bank").

Terms and conditions of construction contract	Legislative requirements	Possible options of actions
Time frames for payments	<p>Any works carried out by a resident sub-contractor within the reporting period must be paid in full within at most 180 days after the work completion certificate is signed. If a sub-contractor violates the established deadline(s), the sub-contractor may be subject to administrative liability of up to 0.5% of the unpaid value of performed works for each day of delay, but not more than the amount of the unfinished foreign trade operation.</p>	<p>The time frames for payment for performed works may be extended on the ground of the National Bank's permit issued at the sub-contractor's request, subject to compliance with certain conditions (usually, subject to the resident's strict compliance with currency legislation of the Republic of Belarus, timely completion of previous foreign trade transaction under the respective foreign trade contract, etc.). Thus, a foreign trade transaction can only be extended where an application is filed to the National Bank prior to expiration of the established deadline.</p>

Terms and conditions of construction contract	Legislative requirements	Possible options of actions
Use of guarantee retention mechanisms on amounts due and payable to sub-contractor for reporting month	Such use is restricted due to the resident sub-contractor's obligation to complete each foreign trade operation in full (<i>i.e.</i> the liability to receive payment for performed works) within 180 days after the work completion certificate is signed.	

4.2. Employer contracts: peculiarities of materials/equipment delivery by General Contractors into the territory of the Republic of Belarus from abroad

When delivering foreign equipment and/or materials (imported from abroad of the territory of the Eurasian Economic Union (the EEU)) to the territory of the Republic of Belarus, such equipment and/or materials must be declared and placed under one of the customs procedures provided for by the Customs Code of the Eurasian Economic Union.

In doing so, a non-resident General Contractor that moves goods from abroad can act as a customs **declarant**, provided that:

- it has a representative office or an affiliated branch duly incorporated and/or registered in the territory of an EEU member state, – when applying for a customs procedure only in respect of goods imported **for own requirements of such representative office or affiliated branch**;

- where a non-resident General Contractor is the owner of such goods, such goods are being moved across the EEU customs border **not under a transaction between such non-resident General Contractor and a member state entity**;
- where non-resident General Contractor's goods are being moved across the EEU customs border not under a transaction between such non-resident General Contractor and a member state entity, – when applying for a customs procedure of customs warehouse, temporary import (admittance), re-export, or a special customs procedure.

In other cases, only **an entity of a member state of the EEU, i.e. a legal entity of the Republic of Belarus, the Russian Federation, Kazakhstan, the Republic of Armenia or the Kyrgyz Republic**, can act as a declarant of the imported construction materials and/or equipment.

Accordingly, in cases where a foreign entity performs General Contractor's functions without establishing a legal entity in the territory of the Republic of Belarus, it must comply with the procedures applicable to the supply of materials and/or equipment from abroad.

5. REFORM OF THE CONSTRUCTION INDUSTRY: CURRENT OUTCOMES AND FORTHCOMING DEVELOPMENTS

The first stage of the construction industry reform was introduced by Edict No. 26 in early 2014.

Edict No. 26 instituted stricter regulations of construction activities in Belarus by introducing:

- the employer's (developer's) obligation to elaborate the pre-project (pre-investment) documentation;
- new procedures for the conclusion and performance of construction contracts pertaining to design/survey works and designer supervision;
- the certification of compliance of construction specialists and entities;

- the contractor's obligation to secure their liability to cure defects during the warranty period for some categories of construction projects;
- a new commissioning procedure;
- an additional administrative fine for offences pertaining to construction activities;
- additional requirements to employers engaged in participatory construction of dwelling units, and other modifications;

The first stage instituted stricter requirements to construction participants and stricter and more detailed regulatory actions pertaining to construction activities.

The second stage of the construction industry reform was initiated by Decree No. 7 in early 2018.

Decree No. 7 introduced a great deal of liberal drive into the existing legal regulations of the Republic of Belarus in the construction sphere.

In particular, Decree No. 7 and related regulatory legal acts (adopted to support it):

- reduced qualifying requirements for certificates of compliance for construction companies;
- introduced the notification requirement procedure for the commencement of construction-assembly works, instead of the authorisation-based procedure;
- introduced simpler requirements for the commencement of works pertaining to overhaul maintenance and technical modernisation and, specifically, for lessees;
- allow employers and contractors to carry out construction projects, which are financed without raising government funds (or equivalents), without procurement procedures;
- cancelled the certification of compliance of a significant proportion of construction works;

- cancelled regulatory and technical legal acts adopted in the USSR; and
- laid the groundwork for further reforming and simplifying the construction activities in Belarus.

The third stage of the construction industry reform is associated with the implementation of Decree No. 7 and the adoption of Directive No. 8 in March 2019.

In particular, in terms of implementation of these two regulatory acts, the following shifts are anticipated in the near future:

- reduction of units which are subject to obligatory confirmation of compliance within the National Conformity Assessment System;
- adjustment of the mandatory TRLAs as it pertains to the frequency and scope of control of production process by supervising agencies;
- adoption of an edict providing a unified list of administrative procedures applicable to economic entities;
- implementation of a unified state expert appraisal standard for the construction design documentation;
- implementation of a unified administrative procedure allowing owners of construction projects to obtain a single report during commissioning, instead of various statements/reports issued by various state supervision agencies;
- adoption of unified rules for designation of construction units for the purposes of issuance of permits/authorisations, with an aggregation of their functional specification;
- obligatory legal analysis of the mandatory TRLAs in order to assess their compliance with the legislative acts and resolutions of the Council of Ministers;
- inclusion of the mandatory TRLAs in to the National Register of Legal Acts of the Republic of Belarus;

- official publication of the mandatory TRLAs on the national legal Internet-portal and in other Internet resources.

The codification of construction legal regulations is the most eagerly awaited novelty: the draft Code of the Republic of Belarus on Architectural, Town-planning and Construction Activities is expected to be prepared by 1 January 2020.

The Code will allow further refinement and simplification of the requirements for architectural, town-planning and construction activities, minimising the administrative procedures and state intervention in construction activities.

Moreover, the government of the Republic of Belarus has been assigned to implement all FIDIC standard forms (see part 6 'FIDIC CONSTRUCTION CONTRACTS IN THE REPUBLIC OF BELARUS' below) into the national legislation by the end of 2019.

Belarus is still facing the positive trend of liberalisation of legal regulation in the construction sphere and of further systematising and harmonising the existing regulatory and technical legal acts.

6. FIDIC CONSTRUCTION CONTRACTS IN THE REPUBLIC OF BELARUS

As mentioned above, the government of the Republic of Belarus has been assigned to implement all FIDIC standard forms into the national legislation by the end of 2019.

Alongside with that, even now, according to clause 1 of Rules No. 1450 that regulate the conclusion and performance of construction contracts in Belarus, contractual relations between employers and contractors (upon their consent) may be regulated by applying the FIDIC international standard contracts, **subject to full compliance with the requirements of legislation of the Republic of Belarus, including Rules No. 1450.**

A similar clause is contained in Rules No. 297 that regulate the conclusion and performance of construction contracts for design/survey works.

On the one hand, legislation of the Republic of Belarus allows using the FIDIC standard forms but, on the other hand, restricts their use within the framework of the dispositive norms of law. Thus, the application of the FIDIC standard forms in Belarus is only possible where they have been adopted to the mandatory provisions of legislation of the Republic of Belarus.

The FIDIC standard contract forms are mainly used in Belarus by adding separate clauses from the FIDIC forms into Belarusian contracts or using the FIDIC forms as a framework for a Belarusian contract.

Due to the fact that the construction sector is one of the most thoroughly regulated areas in Belarus, employers and contractors when using the FIDIC contract forms have to make substantial alterations to the general conditions of the FIDIC forms by modifying particular conditions of contracts, in order to comply with the mandatory provisions of legislation of the Republic of Belarus. For instance, when using the FIDIC standard forms for contracts between a non-resident entity and a resident entity, it must be taken into account that the mandatory term for the completion of an export transaction is 180 days – it means that you cannot stipulate guarantee withholdings from the cost of works for a longer term than 180 days.

Projects erected through the state budget and 'equivalent' funds are subject to mandatory procedure of contract price formation and mandatory advancing ratios and repayment periods.

Furthermore, in Belarus there are mandatory handover procedures and obligatory document forms for the handover of construction-assembly works. Hence, a taking-over certificate may only be applied together with these mandatory document forms.

A finished project ready for operation, including construction/launch phases, regardless of financing sources, is commissioned by the acceptance board in the manner stipulated by the government of the Republic of Belarus, which must also be taken into account when using the FIDIC contract forms. For instance, in Belarus, only certain employer's commissioning functions may be assigned to a third party. In particular, neither a contractor (in case of a "turnkey" construction project), nor an engineering entity is entitled to approve the composition of the acceptance board and to endorse the acceptance/commissioning certificate instead of the employer. Hence, contractors are not

able to procure all activities required for commissioning without the employer's contribution.

It should be emphasised that legislation of the Republic of Belarus does not have a notion of 'liquidated damages'. However, there is a statutory forfeit penalty applying to construction contracts and contracts for design/survey works which can be increased (but not decreased) by the parties.

Despite many restrictions on the unaltered use of the FIDIC standard forms, they are currently increasingly used in Belarus. This is due to the fact that many major foreign contractors – leaders in the construction sector and investors, such as international and transnational financial institutions – use the international FIDIC standards for their construction projects in Belarus requiring export-import funding.

Thus, while foreign direct investments in the construction and real estate sectors grow, the FIDIC contract forms, well-known to foreign investors and financial institutions, gain traction in Belarus.

SECTION 3.
THE RUSSIAN FEDERATION

THE RUSSIAN FEDERATION

Contents

1. ORGANISATION OF CONTRACTOR'S BUSINESS ACTIVITIES	122
1.1. Establishment of a legal presence: branch, representative office, subsidiary company	122
1.2. Commercial activities without foundation of a legal entity	124
1.3. Payment settlements: opening bank accounts	124
1.4. General requirements for the contractor (certification, licensing and other permits).....	125
2. DESIGN DOCUMENTATION	126
2.1. General requirements and development procedures	126
2.2. Approvals and expert review	129
3. FACILITIES CONSTRUCTION	133
4. FEATURES OF CONCLUSION AND PERFORMANCE OF A CONTRACT WITH A FOREIGN CONTRACTOR	139
5. FIDIC CONSTRUCTION CONTRACTS IN RUSSIA	140
6. IMPLEMENTED REFORMS IN THE CONSTRUCTION INDUSTRY	141

CONSTRUCTION IN THE RUSSIAN FEDERATION

1. ORGANISATION OF CONTRACTOR'S BUSINESS ACTIVITIES

1.1. Establishment of a legal presence: branch, representative office, subsidiary company

A foreign contractor has to establish a legal presence in Russia, which could be a branch, or a representative office or a subsidiary company, in order to conduct business activities, to become a member of a self-regulating organisation – the *SRO* (see para 1.4 hereof below) and to obtain any necessary permits.

A branch and a representative office of a foreign company are deemed to be a subdivision of a foreign parent company but not a Russian legal entity.

Branches and representative offices of foreign entities in Russia are subject to mandatory accreditation with Tax Inspectorate No. 47 of the Federal Tax Service located in Moscow (https://www.nalog.ru/rn77/ifns/imns77_47/).

The accreditation procedure does not depend on the form of accreditation (branch or representation) and consists of several stages, including a payment of the registration fee and providing data on the number of foreign citizens which will work in a branch or a representative office to the Chamber of Commerce and Industry of the Russian Federation.

Set forth below is a descriptive list of documents required for accreditation of a representative office / branch in Russia:

- constituent documents of the company forming representative offices and branches, its tax certificate, tax identification number (TIN), and extracts from the corporate registers;
- application to the Federal Tax Service and the decision to establish the representative office / branch, issued by the governing bodies of the founder;
- power of attorney for the person heading the branch or representative office of foreign company; and

- receipts confirming the payment of state duties.

A representative office and branch must complete a number of procedures following accreditation in order to become fully operational, including registering with the Russian statistics authorities, the pension fund and the social insurance fund, and opening a bank account.

A representative office is set up to exercise only those functions that are promoting the business of its foreign parent company in Russia. According to the law, a representative office shall not engage in commercial activities but, if it does so, its activities will entail a 'permanent establishment' for tax purposes, when a foreign legal entity engages in regular commercial activity through its representative office (for example, the sale of goods, the performance of works, or the provision of services) without establishing a branch.

On the contrary, a branch may engage in any activities in which the parent company engages pursuant to its corporate documents, if so provided for in the branch's regulations and permitted under Russian law.

Furthermore, a foreign company can conduct business in Russia through its Russian subsidiary.

The Civil Code of the Russian Federation recognises the following types of commercial entities that can be established in Russia by a foreign company for the purposes of business activities: general and limited partnerships; business partnerships; production cooperatives; limited liability companies ("LLCs"); and joint stock companies ("JSCs"). JSCs and LLCs are the most common types of legal entities in Russia.

The main provisions governing the establishment and operation of Russian companies are contained in the following Russian legislation:

- the Civil Code of the Russian Federation;
- Federal Law No. 14-FZ dated 8 February 1998 "On Limited Liability Companies" (the "LLC Law");
- Federal Law No. 208-FZ dated 26 December 1995 "On Joint Stock Companies" (the "JSC Law"); and

- Federal Law No. 129-FZ dated 8 August 2001 “On State Registration of Legal Entities and Individual Entrepreneurs” (the “Registration Law”).

A JSC or an LLC is deemed to be incorporated from the moment of its state registration with the Russian tax authorities. The state registration procedure for JSCs and LLCs is similar.

A foreign company, in order to incorporate its Russian subsidiary, will need to file at least the following documents with the registration office of the Federal Tax Service:

- a registration application form, including notarised signatures;
- copies of its foundation documents;
- the proof of legal status of business founder(s); and
- a receipt confirming the payment of state registration fee.

In case of a JSC, the registration of its shares with the Central Bank of Russia is also required.

1.2. Commercial activities without foundation of a legal entity

According to clause 3 of Article 4 of the Federal Law No. 160-FZ dated 9 July 1999 “On Foreign Investments in the Russian Federation”, a foreign legal entity which conducts business activities and bears liability for obligations in connection with the performance of the indicated activity in the territory of the Russian Federation has the right to carry out activities in the territory of the Russian Federation through a branch or representative office from the day of its accreditation.

1.3. Payment settlements: opening bank accounts

Before a contractor opens an account with a bank, it must consider getting a preliminary approval that the bank is ready to accept its business activities and that the contractor’s payment structure complies with the bank’s compliance requirements.

In accordance with Article 86 of the Tax Code of the Russian Federation, banks in the territory of the Russian Federation open bank accounts for non-resident companies only upon presentation of a certificate of registration with the Russian tax authority (i.e. TIN (*in Russian: ИНН*)).

The main requirements to prepare constituent documents and bank forms are as follows: an extract from the company register should be issued no longer than 90 days; all company documents must be translated into Russian and the translation must be notarised; and the signature card must be signed at the bank.

1.4. General requirements for the contractor (certification, licensing and other permits)

According to Article 55.8 of the Town-Planning Code of Russia, designers, civil engineers and builders, in order to conduct their professional activities and conclude contracts for engineering surveys and preparation of project documentation, and a construction contract with a developer, a technical owner, a person responsible for the operation of the building / structure, or a regional operator, are required to obtain a membership in their respective SROs.

Obtaining an SRO membership requires having a certain number of qualified workers (at least two specialists must be included in the Unified National Registers of Specialists (NOSTROY <http://nrs.nostroy.ru/> / NOPRIZ <http://nopriz.ru/nopriz/nrs/>) and a certain amount of construction equipment (for builders) in place. Becoming and being a member of an SRO entails the following expenses: an admission fee, a regular membership fee, and a contribution to the compensation fund of the SRO / civil liability insurance, which is founded to cover the liability of the SRO members.

In order to perform works on certain categories of capital constructions, a member of an SRO shall meet the minimum requirements set out by Regulation of the Government of the Russian Federation, No. 559 dated 11 May 2017 "On Approval of the Minimum Requirements for Members of a Self-regulatory Organisation Performing Engineering Surveys, Preparing Project Documentation, Performing Construction, Reconstruction, Repair of Highly Hazardous, Technically Complex and Unique Objects".

According to clause 2.1, sub-clause 5 of clause 2.2 of Article 52 of the Town-Planning Code of Russia, the membership in SROs in the field of

construction, reconstruction and repair of capital construction objects is not required for:

- individual entrepreneurs and legal entities, if the amount of the obligations under construction contracts concluded by them with the developer, the technical owner, the person responsible for the operation of the building, or the regional operator, does not exceed three (3) million Russian rubles (the national currency of the Russian Federation);
- contractors engaged in the construction, reconstruction and repair of an individual residential building;
- contractors carrying out the construction, reconstruction and major repairs of: 1) garages on a land plot provided to an individual for purposes not related to entrepreneurial activity; 2) objects on the land provided for gardening houses; 3) structures that are not objects of capital construction (booths, kiosks, sheds and alike); and 4) buildings and structures of auxiliary use.

2. DESIGN DOCUMENTATION

2.1. General requirements and development procedures

The scope, contents and structure of design in Russia differs substantially from that in Western countries. Design consists of two major parts: 'project documentation' and 'working documentation'. These are often translated as 'basic design' and 'detailed design' but they differ from what is understood by those terms in Europe or the United States.

Under the Town-Planning Code of the Russian Federation (hereinafter referred to also as the "TPC"), before the construction / reconstruction of a capital construction facility or linear facility, architectural and construction design is carried out in the form of project documentation.

According to clause 2 of Article 48 of the TPC, 'project documentation' is a collection of materials in text and graphic forms that defines architectural, functional-technological, constructive and engineering solutions to provide the construction and reconstruction of facilities for various purposes.

Also, the definition of project documentation is given in the national state standard GOST 21.001-2013 “System of Project Documentation for Construction. General Provisions”.

A project documentation is required for:

- assessment of compliance of a newly constructed or reconstructed object with the Technical Regulations (mandatory requirements in the Russian Federation) prior to starting construction works and in the course of the state or non-state expertise;
- conformity assessment of a newly constructed or reconstructed object to the employer’s terms of reference (design basis documentation);
- financing of the construction / reconstruction of a facility at the expense of the state budget;
- obtaining a construction permit;
- coordination with various departments, for example, the motor road transport department for connecting the relevant object to the road network;
- preparation of working documentation for construction and installation works on the basis of decisions agreed upon in the project documentation.

In addition, in accordance with clause 1 of Article 55 of the TPC, a facility is evaluated for compliance with the project documentation upon its commissioning; subsequently, the building must be operated in accordance with its permitted use (purpose) and the requirements of technical regulations and project documentation (Article 55.24 of the TPC).

In summary, the project documentation is a document in the established form, containing sufficient construction solutions and defining characteristics of an object, in accordance with which it will be operated until the moment of its reconstruction.

In most cases it is impossible to carry out construction work based on the project documentation since it contains the main parameters and common descriptions only. Therefore, in order to detail solutions of the project documentation, a working documentation is developed that serves then as an installation guide.

WHEN IS THE PROJECT DOCUMENTATION REQUIRED?

Currently, according to Article 48 of the TPC, the development of project documentation is required for all capital construction projects, except for individual residential construction or garden houses.

Objects of capital construction do not include temporary buildings. i.e. structures which do not have a strong connection with land plots and which can be moved without changing their main characteristics, such as booths, kiosks, sheds and alike (they also require no project documentation).

WHO HAS THE RIGHT TO DEVELOP DESIGN DOCUMENTATION?

In accordance with clause 4 of Article 48 of the TPC, an individual entrepreneur or a general designer company concluding an agreement on the development of project documentation with a developer, technical employer or a person responsible for the operation of the facility must be a member of an SRO in the field of architectural and construction design.

Furthermore, the development of project documentation shall be carried out by the chief project engineers and the chief project architects - specialists in architectural and construction design. These specialists must be employed by the relevant organisation at the main place of work. In addition, such specialists must be entered in the national NOPRIZ register (<http://nopriz.ru/nopriz/nrs/>), have specialised education and professional experience for at least three (3) years and upgrade their qualifications at least once every five (5) years (Article 55.5 – 1 of the TPC).

If the contract for the development of project documentation is concluded with persons other than the developer, technical employer or the person responsible for the operation of the building, for example as a subcontract, then membership in an SRO is not required.

The developer (the employer) itself may develop a project documentation, provided that it joins the SRO for architectural and construction design.

The person preparing the project documentation is responsible for the quality of the project documentation and its compliance with the requirements of technical regulations.

COMPOSITION OF DESIGN DOCUMENTATION

In accordance with clause 13 of Article 48 of the TPC, the structure and content of the sections of project documentation for various types of construction objects are determined by the Government of the Russian Federation. Currently, such requirements are established by Government Resolution No. 87 dated 16 February 2008 “On the Structure of Project Documentation and Requirements Regarding Its Content” (“Resolution No. 87”)

According to Resolution No. 87, a project documentation consists of two parts: textual and graphic.

The text part must contain information regarding the capital construction object, a description of the adopted technical and other decisions, explanations, links to regulatory and/or technical documents used in the preparation of project documentation, and calculation results justifying the decisions made.

The graphic part must display the adopted technical and other solutions and must be in the form of drawings, diagrams, plans and other documents.

2.2. Approvals and expert review

Expert review (expertise) of project documentation means a verification of solutions made in the project documentation for compliance with the Technical Regulations, including: verification of the structural reliability and safety of an object; and verification of compliance with sanitary-epidemiological, environmental, and fire safety requirements, requirements for state protection of cultural heritage objects, environmental protection requirements, industrial, nuclear, radiation and other safety requirements.

Most employers believe that conducting a state or non-state expertise of project documentation proves that all technical solutions are correct and

optimal but it is not so. An expertise of project documentation is required to check such documentation for compliance with the mandatory technical standards merely but not to verify its compliance with the terms of reference (employers' design basis documentation). The optimality and efficiency of the decisions made in the project documentation must be gained by the designer and its verification must be carried out by employers separately.

The expertise of design documentation and the expertise of engineering survey results are regulated by Articles 48 and 49 of the TPC.

In accordance with clause 15 of Article 48 of the TPC, the obligation to provide the project documentation for expertise lies with the developer (technical employer); after receiving a positive expert review, they must approve it. Accordingly, the approval of project documentation with a negative expert opinion is not allowed.

All project documentation, except for the documentation containing information in the field of state secrets, must be submitted for expertise in electronic form.

An expertise of the results of engineering surveys can be carried out simultaneously with an expertise of the project documentation or prior thereto.

WHICH OBJECTS OF PROJECT DOCUMENTATION SHALL BE REVIEWED BY EXPERT?

In accordance with Article 49.2 of the TPC, an expertise of the project documentation must be carried out for all capital construction and linear facilities, except for:

- individual residential buildings not higher than three floors;
- some types of block residential buildings not higher than three floors (for example, townhouses);
- some types of apartment buildings not higher than three floors;
- free-standing buildings or structures not higher than two floors, with a total area of not more than 1,500 m², which are not for people residency or industrial activities;

- free-standing buildings or structures no higher than two floors, with a total area of not more than 1,500 m², which are intended for industrial activities, and at the same time they do not require the establishment of sanitary protection zones or such zones are necessary, but are located within the boundaries of land plots where objects are located;
- objects for which construction permits are not required.

Though, in any case, the expertise will be required for the above listed buildings and structures, if they are located within the boundaries of the protection zones of pipeline transport facilities or if such buildings or structures are related to objects of mass attendance.

It should be noted that if no expertise of project documentation is required, the developer (or technical owner) has the right to make either state or non-state expertise on its own initiative.

TYPES OF EXPERTISE OF PROJECT DOCUMENTATION: STATE AND NON-STATE EXPERTISE

An expertise of project documentation and an expertise of the results of engineering surveys can be state or non-state. The employer has the right to determine what kind of expertise it will undertake, except when the state expertise is mandatory.

The list of facilities for which the state expertise is mandatory is established by Article 48.1 of the TPC. It includes highly hazardous, technically complex and unique objects.

In addition, the list of objects falling under the state expertise is determined by part 3 and 4 of Article 49:

- objects constructed (or reconstructed) according to design reuse;
- objects financed in whole or in part from the state budget;
- objects whose construction or reconstruction is carried out within the boundaries of zones with special conditions for the use of territories;

- cultural heritage sites;
- objects, construction, reconstruction of which is carried out within the boundaries of specially protected natural territories; and
- facilities used for the disposal of waste of I-V hazard classes.

It is worth noting that that the state expertise has a precise territorial reference: an expertise must be carried out in the region where object is located. However, if the state expertise is selected as an alternative to non-state, then the territorial binding does not work.

The procedure and organisation of the state expertise and non-state expertise are regulated by Resolution of the Government of the Russian Federation, No. 145 dated 5 March 2007, and Resolution of the Government of the Russian Federation No. 272 dated 31 March 2012, respectively.

Resolution of the Government of the Russian Federation No. 145 contains a formula for calculating the cost of conducting a state expertise. Non-state expertise does not have a formula for calculating value - it is determined by market prices. Usually, it is slightly lower than the cost of state expertise.

The term of the state expertise is determined by the complexity of the capital construction project but cannot exceed 42 days. The term may be extended at the request of the employer, but not more than for 20 days.

UNIFIED STATE REGISTER OF EXPERT'S CONCLUSIONS

All expert's conclusions in respect of the of project documentation before their delivery to the applicant are entered into the Unified State Register of Expert's Conclusions For Capital Construction Objects Project Documentation (<https://gge.ru/services/egrz/>).

The information contained in the Register is publicly available and free of charge and is provided upon written request. The Register is kept by the Ministry of Construction of Russia (<http://www.minstroyrf.ru/>).

3. FACILITIES CONSTRUCTION

3.1. The main stages of construction

1) DECISION ON CONSTRUCTION, PREPARATORY STAGE, GPZU

Upon making a decision on the need to build a facility, the employer fulfills the *GPZU* - land plot development plan. To prepare the *GPZU*, it is necessary to perform a topographic survey (or to have the actual one) and prepare the layout of the object. Also, where necessary, an approval of the land clearing (or replanting) of green spaces on the site and public hearings are required.

2) ENGINEERING

Engineering surveys are the initial data for territorial planning and architectural and construction design.

In accordance with Article 47 of the TPC and Regulation No. 87, the development of a project documentation for capital construction projects and the construction and re-construction according to such project documentation are not allowed without engineering surveys.

The regulatory framework for the performance of engineering surveys is the Regulation of the Government of the Russian Federation, No. 20 dated 19 January 2006 and Article 47 of the TPC. The performer should also consider the requirements of the Technical Regulations. Currently, the Russian legislation does not contain a specific list of necessary engineering surveys for various types of objects. Article 15 of the Technical Regulation FZ-384 "On the Safety of Buildings and Structures" establishes that engineering surveys must be necessary and sufficient to design and build a safe facility, while necessity and sufficiency is a purely evaluative criterion.

The starting point for determining the necessary list of engineering surveys is the urban development support information system (*ISOGD*), which is maintained in each region in accordance with Article 56 of the TPC. Among other things, it contains copies of reports on the results of previous engineering surveys.

As a general rule, legal entities and individual entrepreneurs performing engineering surveys should be members of SROs in the field of engineering surveys.

The results of engineering surveys must be sent for expertise either simultaneously with the project documentation, or prior to the project documentation expertise. In accordance with clause 3.1 of Article 49 of the TPC, an expertise for engineering surveys can be omitted if it is not required that:

- 1) a construction permit be obtained; or
- 2) the project documentation be reviewed by an expert.

3) TECHNICAL SPECIFICATIONS

It is necessary to obtain technical specifications (*TU*) before starting the development of the project documentation in order to connect a future facility to utility networks. Technical specifications must determine the maximum power capacity (load) on the network, the period of connection to utility network, the term of the technical specifications, and the cost of connection. Technical specifications are to be obtained at organisations operating engineering networks. In most cases, the calculation of loads (power capacity) is required to obtain technical specifications.

Technical specifications are issued to the design organisation as input data in accordance with clause 6 of Article 48 of the TPC.

Upon receipt of the technical specifications, agreements on the technological connection of the relevant facility to electricity, gas, water and wastewater, heat supply, etc., are concluded. In addition, technical specifications must be obtained in the course of adjoining existing road networks.

The connection standards have been developed for certain types of engineering networks. For example, the Rules for Access to Electric Power Transmission Services were determined by Regulation of the Government of the Russian Federation, No. 861 dated 27 December 2004.

4) DESIGN DOCUMENTATION, ITS APPROVAL AND EXPERTISE

Please see information about the design (project and working) documentation in Section 2 (Design Documentation) above.

5) CONSTRUCTION PERMIT

Prior to the commencement of construction (as well as re-construction), it is necessary to obtain a construction permit. Clause 17 of Article 51 of the TPC establishes the cases where no such permit is required. For example, no construction permit is required for major repairs of capital construction object. A construction permit is a document confirming compliance of the project documentation with all mandatory requirements and a permission to place a capital construction object on a land plot in accordance with its permitted use, subject to the restrictions established by land and other legislation.

6) CONSTRUCTION PROCESS

In accordance with Article 52 of the TPC, the developer and the contractors are obliged to comply with the decisions under the project documentation. A person performing construction works is responsible for compliance of the object with the project documentation requirements.

In addition, the developer (or technical employer) must give notice of the commencement of construction works to the Inspectorate of State Construction Supervision and ensure compliance with the Technical Regulations and the safety during the construction process.

Prior to the commencement of works, the developer (technical employer) is obliged to provide the contractor with the results of engineering surveys, the project documentation, and the construction permit.

If during the construction process there is a need to alter the project documentation decisions, the contractor is obliged to approve a new version of the project documentation with the developer (or technical employer) after the appropriate changes are made, in the manner specified by law.

The architectural and technical supervision, construction control and state construction supervision shall be carried out in the course of construction.

7) COMMISSIONING

Upon completion of the facility construction, a permit to operate shall be issued in accordance with Article 55 of the TPC. It is a document confirming compliance of the constructed/re-constructed facility with the project documentation, construction permit, urban development plan, permitted use of the land plot, and other legal requirements.

8) OPERATION OF THE FACILITY

Primarily, any building or structure must be operated in strict accordance with its purpose (permitted use) and the project documentation, and with frequent monitoring, maintenance and repair. Otherwise, the operation of such building or structure may be suspended.

In accordance with clause 4 of Article 55.25 of the TPC the frequency and scope of maintenance work (including observations and inspections) are to be determined, amongst others, by the project documentation.

The person who owns the building (based on the right of ownership, lease, economic management, etc.) or the person involved by the owner of the building on a contractual basis is responsible for the operation of the building.

When attracting individuals and legal entities under a contract, the owner of the relevant building is obliged to provide them with a complete set of documentation necessary for the operation of the building, including the results of engineering surveys, project documentation, certificates of works, structures, engineering equipment and networks, etc.

3.2. Features of the construction of certain facilities: cultural heritage objects and linear objects

3.2.1 Features for construction of cultural heritage objects

The Federal Law No. 73-FZ dated 25 June 2002 “On Objects of Cultural Heritage (Historical and Cultural Monuments) of the Nationalities of the Russian Federation” (the “Law No. 73-FZ”) establishes the following division, which determines works that may be performed in regard to the relevant facilities:

1) an object of cultural heritage (hereinafter the “OCH”) included in the register (an object included into the Unified State Register of the OCHs);

2) identified OCH (an object included in the list of identified OCHs is an intermediate stage prior to its inclusion into the Unified State Register of OCHs);

3) an object that has the characteristics of an OCH (an object for which the regional OCH protection body filed an application for its inclusion into the register).

Restrictions are set for all facilities but the most significant restrictions are established for the OCHs that are included in the Unified State Register of OCHs. Mild requirements are established for objects that have characteristics of an OCH.

However, certain restrictions are established by law for everything that has characteristics of an OCH. In particular, prior to the land allocation, construction and other works which can affect an object that has characteristics of a cultural heritage object, it is necessary to conduct a historical and cultural expertise (Article 31.1 of Law No. 73-FZ).

Measures to provide the preservation of cultural heritage sites in the course of conducting survey, design, land, construction and other works are established by Article 36 of Law No. 73-FZ.

Additionally, Law No. 73-FZ distinguishes between the legal statuses of an OCH and its adjoining territories in respect of which special restrictions are also established.

Only economic activities not contradicting the requirements for the preservation of an OCH are allowed within the boundaries of the territory of each type of OCH.

Article 5.1 of Law No. 73-FZ provides for the requirements for the implementation of activities within the territory of the object of cultural heritage, depending on certain type of each OCH – architectural monument, ensemble, or landmark.

The strictest restrictions are established in relation to architectural monument and ensembles in the territory of which there is a general prohibition from performing any construction works, except for the preservation of cultural heritage objects.

3.2.2 Features for construction of linear objects

The term 'linear object' is repeatedly used in separate federal laws of Russia but it lacks a legal definition. Only certain types of linear objects are listed in the Russian legislation. For example, in accordance with clause 10.1 of Article 1 of the TPC, linear objects include electric power transmission lines, communication lines (including linear cable structures), pipelines, auto roads, railway lines and other similar structures.

Under the TPC, all structures, including linear objects, are types of capital construction objects.

Documentation required for the construction of a linear object

Clause 11 of Article 48 of the TPC provides that the project documentation for a linear object must be prepared on the basis of a territorial development plan and a boundary-setting plan and not on the basis of information specified in the GPZU.

Regulation of the Government of the Russian Federation No. 269 dated 7 March 2017 "On Approval of the List of Cases in which the Preparation of Documentation for the Territorial Development Plan is Not Required for the Construction and Re-construction of a Linear Object" determines some exclusions for the site planning documentation.

The composition and content of the territorial development plan providing for placement of one or more linear objects are established by the Government of the Russian Federation (clause 5 of Article 42 of the TPC). The Government of the Russian Federation approved these provisions in its Regulation No. 564 dated 12 May 2017 "On Approval of the Regulation on the Composition and Content of Territorial Development Plans Providing For the Placement of One or More Linear Objects".

Project documentation for linear objects

In accordance with clause 7 of Article 51 of the TPC, a developer must provide the materials contained in the project documentation to obtain a construction permit.

There are no exceptions for the construction of a linear object and, therefore, its construction also requires the development of a project documentation.

The TPC requires the preparation of project documentation, if the territorial development plan provides for the placement of a transport infrastructure of federal significance or a linear object of transport infrastructure of regional or local significance (clause 1 of Article 48 of the TPC). In such case, the architectural construction design can be carried out within the borders of land plots not belonging to the developer.

4. FEATURES OF CONCLUSION AND PERFORMANCE OF A CONTRACT WITH A FOREIGN CONTRACTOR

When working with a foreign counterparty, it is mainly required to comply with the general civil legislation requirements (that are common for all business persons, whether national or foreign) and currency legislation requirements.

To note are also some features on the conclusion of a foreign trade contract, which must be considered.

In the absence of the parties' agreement on governing law, a contract shall be governed by law of the country where, at the time of conclusion of the contract, the place of residence or the main place of business of the party which carries out the performance is located, which is crucial for the content of the contract (paragraph 1 of Article 1211 of the Civil Code of the Russian Federation), i.e. the contractor's place of business.

A foreign trade transaction must contain two mandatory provisions: (1) the subject matter of the contract; and (2) the price of the contract. The subject matter of the contract implies an indication of its quantity and quality.

For the payment in a foreign currency, it is necessary to open a foreign currency account. The bank serving such account shall issue a transaction certificate (if the amount of the contract exceeds USD 50,000).

5. FIDIC CONSTRUCTION CONTRACTS IN RUSSIA

At present, there are no legal requirements as to the forms of the construction contracts. Also, there are no widely used industry standards in this regard.

For smaller and medium-sized projects executed by and between Russian companies, very simple (10 to 20 pages) contract forms are usually used. For larger scale projects, FIDIC forms are sometimes used. However, it should be noted that each FIDIC form has to be revised substantially in order to be adapted to the Russian law and the peculiarities of the Russian construction process. Therefore, a better alternative in this regard would be to develop a 'custom-made' contract for a certain project. The following features must be considered, amongst others, when using FIDIC forms in Russia.

Acceptance of works, payments and accounting

Russian forms for the acceptance of work and the calculation of its price are different from work acceptance and pricing procedures set by FIDIC forms.

The mechanism for work acceptance and price calculation has its origins in the Soviet era and has not changed much since then. When a construction project is financed by state funds, it is mandatory that all pricing is based upon unitary rates that are published by the authorities. Those unitary rates have a base year (for example 2001, 2004, 2007) and, in order to be used in a certain project, they have to be multiplied by a coefficient, which could be either a published one or as agreed by the parties. Based on unitary rates and quantities provided by the design documentation, a budget estimate must be composed. The acceptance of works is formalised by specific forms of acceptance certificates (KS-2 and KS-3), which were designed to be used together with unitary rates. These pricing and acceptance mechanisms do not work well when lump sum prices are negotiated and in the case of EPC contracts (i.e., when the price is agreed before the design is developed). Also, the levels of established unitary rates are usually quite low and often do not reflect the labour costs of foreign contractors. Although from a legal standpoint, using unitary rates and budget estimates is only mandatory when the project is financed by the state, many employers require them even in private projects.

Variations inflexibility

A construction project often requires adjustments in the duration of works and/or costs. For this purpose, FIDIC forms contain special provisions on variations and adjustments. But it is almost impossible to do so under the Russian public procurement rules that apply when a state body acts as an employer, meaning that any reasonable requests for time extension and additional costs initiated by the contractor will not be approved by the employer.

Role of an Engineer

FIDIC contracts envisage the specific role of engineers in the construction project, which is usually a special company with a qualified staff that represents the employer. Even though an engineer may not be a party to the contract, it performs several important functions, such as monitoring quality control and work acceptance and considering complaints and making decisions on several other issues. This differs from the standard practice in the Russian construction industry. Some of the functions of FIDIC engineers overlap with the powers of the Russian state authorities.

Dispute resolution

Typical FIDIC conditions provide for a three-tier dispute resolution procedure: (i) the engineer rules on disputable issues; (ii) the Dispute Adjudication Board (DAB) where the parties can argue the engineer decisions; and (iii) the International Commercial Arbitration to which the parties may appeal against an unsatisfactory DAB's decision. The Russian law enforcement system is not familiar with such kind of multi-tiered disputes resolution procedure, meaning that the parties might experience problems with the decision enforcement, except for the last tier, which is the International Commercial Arbitration.

6. IMPLEMENTED REFORMS IN THE CONSTRUCTION INDUSTRY

The most significant changes regarding the construction in Russia were introduced in the urban planning, land and civil legislation during a legal reform in 2018.

These changes were adopted by the following federal laws:

- 1) Federal Law No. 339-FZ dated 03 August 2018 “On Amendments to Part One of the Civil Code of the Russian Federation and Article 22 of the Federal Law “On Enactment of Part One of the Civil Code of the Russian Federation” (hereinafter “Law No. 339-FZ”);
- 2) Federal Law No. 340-FZ dated 03 August 2018 “On Amendments to the Town - Planning Code of the Russian Federation and Certain Legislative Acts of the Russian Federation” (hereinafter “Law No. 340-FZ”);
- 3) Federal Law No. 341-FZ dated 03 August 2018 “On Amendments to the Land Code of the Russian Federation and Certain Legislative Acts of the Russian Federation Regarding Simplification of the Placement of Linear Objects” (hereinafter “Law No. 341-FZ”); and
- 4) Federal Law No. 342-FZ dated 03 August 2018 “On Amendments to the Town - Planning Code of the Russian Federation and Certain Legislative Acts of the Russian Federation” (hereinafter “Law No. 342-FZ”).

In brief, the changes are as follows.

- 1) Changes regarding the regulation of unauthorised constructions were adopted within the framework of Laws No. 339-FZ and No. 340-FZ.
- 2) The demolition of capital construction objects has been referred by Law No. 342-FZ to the urban development regulated by the relevant legislation. Accordingly, the activities of developers, technical employers and SROs include activities related to the demolition of capital construction objects.
- 3) A legal concept of non-capital object has been introduced. The TPC now directly establishes that non-capital buildings, structures and inseparable land improvements (paving, covering and others) do not relate to capital construction objects. Non-capital buildings and constructions are deemed to be objects that do not have a firm connection with the land plot and whose structural

characteristics allow them to be moved and/or disassembled and subsequently assembled without disproportionate damage to its purpose of use and without changing the main characteristics of buildings and structures (including booths, kiosks, sheds and other similar structures).

- 4) The cases of the mandatory state expertise have been enhanced.
- 5) The rules for issuing and amending construction permits have been clarified.
- 6) An Information System (*ISOGD*) and a Classifier of Capital Construction Objects have been introduced.
All such objects must be classified according to their purpose and functional and technological features (for the purposes of architectural and construction design and maintaining the Unified State Register of Expert Conclusions for Project Documentation for Capital Construction Objects).
- 7) The regulation of zones with special conditions of use has been systematised.
- 8) The placement of linear objects must be carried out on a public easement basis.
- 9) The concept of an individual residential construction object and the notification procedure for its construction and commissioning have been introduced.

In addition, a number of by-laws have been adopted governing the application of new rules for raising funds under contracts of shared participation in the residential construction.

**SECTION 4.
THE REPUBLIC OF UZBEKISTAN**

THE REPUBLIC OF UZBEKISTAN

Contents

1. ORGANISATION OF CONTRACTOR'S ACTIVITIES	146
1.1. Implementation of activities with the creation of a legal entity	146
1.2. Activities without creation of a legal entity	149
1.3. Organization of payments: opening a bank account.....	150
1.4. General characteristics of the requirements to the contractor (certification, licensing, other permits).....	151
2. DESIGN DOCUMENTATION	154
2.1. General requirements and development procedure.....	154
2.2. Coordination / appraisal / approval.....	157
3. CONSTRUCTION OF A FACILITY	160
3.1. Main stages of construction.....	160
3.2. Specificities of construction of particular facilities	166
4. FEATURES OF THE CONCLUSION AND EXECUTION OF THE CONSTRUCTION CONTRACT WITH A NON-RESIDENT CONTRACTOR	168
5. FIDIC CONSTRUCTION CONTRACTS	170
6. UPCOMING AND IMPLEMENTED REFORMS IN THE CONSTRUCTION SECTOR	171

1. ORGANISATION OF CONTRACTOR'S ACTIVITIES

In Uzbekistan, local companies, regardless of their legal form, have the right to carry out any activity not prohibited by the legislation of the Republic of Uzbekistan. Legal entities - non-residents of the Republic of Uzbekistan also have the right to engage in entrepreneurial activity in Uzbekistan. At the same time, they can act as foreign investors or participate in the creation of separate legal entities - enterprises with foreign investments, enjoying all the rights, guarantees and benefits provided by the legislation of the Republic of Uzbekistan. Foreign persons may also carry out activities without forming a legal entity by establishing their branches, representative offices or permanent establishments in Uzbekistan.

1.1. Implementation of activities with the creation of a legal entity

Construction companies in the market of Uzbekistan organize their activities most frequently in the form of limited liability companies (LLC). If companies (hereinafter referred to sometimes as "enterprises") are created with the participation of foreign legal entities and individuals, they are usually created in the form of a joint venture limited liability company (JV LLC). The state registration of enterprises is carried out through the Public Service Centers – in person, or through the single portal of interactive public services (the "SPIPS") – electronically, after the provision of required documents.

The list of required documents for registration of an enterprise in Uzbekistan is as follows:

- Application for registration;
- One copy of its constituent documents (Charter and Foundation Agreement in the state (*i.e.* Uzbek) language, the Protocol Decision of its founders on the establishment of the enterprise;
- Bank payment document confirming payment of the state fee as follows: for in person registration – one (1) basic calculation value (BCV) - UZS223,000 (approximately USD25.00 as of the date hereof) (UZS means Uzbek soums, the national currency of the Republic of Uzbekistan) for local businesses and ten (10) BCVs for enterprises with foreign investment, and for electronic registration – a half of the corresponding amount;

- Extract from the Commercial Register at the place of registration of the company's foreign founder as a legal entity or another document confirming the activities of the legal entity, legalised in the prescribed manner by the consular office of the Republic of Uzbekistan (for an enterprise with a foreign founder).

The term 'enterprise with foreign investments' applies to an enterprise in the territory of the Republic of Uzbekistan, in which foreign investments make not less than 30% of the shares in its authorised fund. Activities of such enterprises are regulated by the Law of the Republic of Uzbekistan "On Foreign Investments". In recent years, strong measures have been taken in Uzbekistan to increase the investment attractiveness of the country. Specifically, in 2018, the Presidential Order "On Measures for Fundamental Improvement of the Investment Climate in the Republic of Uzbekistan" was issued, providing for changes according to which certain legal requirements for the creation of enterprises with foreign investments should be significantly simplified. The changes relate to the following:

- the minimum proportion of foreign investments in the authorised fund of an enterprise with foreign investments was reduced from 30% to 15%;
- the requirement for mandatory participation of a foreign legal entity as a participant of an enterprise with foreign investments was abolished; and
- the minimum size of the authorised fund of an enterprise with foreign investments was reduced from UZS600 million (approximately USD63,700 as of the date hereof) to UZS400 million (approximately USD42,500 as of the date hereof).

Although the relevant amendments to Uzbek legal acts have not been made yet, in practice, they are already applied.

In order to carry out investment activities in accordance with the legislation of the Republic of Uzbekistan, foreign investors and enterprises with foreign investments have the right to freely conclude employment contracts with citizens of any foreign state and stateless persons permanently residing outside the Republic of Uzbekistan. Such persons have the right to

enter and remain in the territory of the Republic of Uzbekistan for the entire period of an employment contract by obtaining appropriate multiple-entry visas. Meanwhile, a foreign citizen entering the Republic of Uzbekistan with the purpose of work, can be employed in the territory of the Republic of Uzbekistan only after issuance of a confirmation of the right to work by the Agency for External Labour Migration of the Republic of Uzbekistan, based on the employer's permit to employ foreign labour.

The application for both the above confirmation and permit must be submitted by an employer either to the Public Service Center in person or through the SPIPS in electronic form. Each of the confirmation and the permit is issued for a period of one year, with the possibility of its extension an unlimited number of times twenty (20) days before its expiration in the same procedure as established for its receipt.

The Regulation "On the Procedure for Attracting and Using Foreign Labour in the Republic of Uzbekistan" provides a list of certain categories of persons for whom the above-mentioned documents are not required. Such persons include, but are not limited to:

- foreign citizens who made investments in the Republic of Uzbekistan in an amount not less than 8,500 BCVs (either in the form of purchase of shares in, or creation of, a foreign enterprise);
- specialists employed in the tourism sector at the request of the State Committee for Tourism Development for three (3) months;
- founders of foreign enterprises and joint ventures operating or being established in the territory of the Republic of Uzbekistan for three (3) months;
- persons for whom the international treaties of the Republic of Uzbekistan define an alternative order of employment.

Besides, the legislation of the Republic of Uzbekistan establishes a number of benefits for qualified specialists and highly qualified specialists. An individual can be recognized as a highly qualified specialist if: (i) he/she is a graduate from the top-1,000 universities according to the approved lists; (ii) she/he has at least 5 years of professional experience; and (iii) his/her salary is not less than USD60,000 per year under an employment contract.

A qualified specialist is an individual who: (i) has higher education; (ii) has professional work experience of at least five (5) years; and (iii) receives a salary in an amount not less than USD30,000 per year. To employ a qualified specialist or a highly qualified specialist, an employer does not need to obtain the above permit. It is only required to obtain the above confirmation. The confirmation for a qualified specialist or a highly qualified specialist is issued in the general manner for up to three (3) years, with the right of its further extension.

1.2. Activities without creation of a legal entity

In order to carry out their business activities, construction companies - non-residents of the Republic of Uzbekistan may open branches in Uzbekistan or operate through registered permanent establishments. To protect its own interests, a foreign legal entity may also accredit a representative office, provided that a representative office may not conduct any commercial activities. In practice, foreign construction companies prefer to work through so-called permanent establishments (PEs), which have no organizational and legal significance and are necessary for tax purposes.

According to the Tax Code of the Republic of Uzbekistan (hereinafter the "Tax Code"), a PE of a non-resident of the Republic of Uzbekistan (hereinafter a "non-resident") is any place through which a non-resident carries out its business activities in Uzbekistan for more than 183 days during any consecutive twelve-month period, including its activities carried out through an authorized person. This can also include a construction site (construction, installation or assembly facility) as well as services related to the supervision of the performance of works at these facilities. Each construction site from the date of the beginning of works is considered as a separate PE. If sub-contractors are other non-residents, their activities from the date of commencement of work at such construction site are also regarded as a separate sub-contractors' PE.

A PE is considered to be established on the day of commencement of its works/services (actual or contractual). In case of a construction site, a PE is considered to be established from the date an act on the transfer of the site to the contractor is signed.

Each PE of a non-resident is subject to registration with the tax authorities. For this purpose, not later than 183 days from the date of commencement

of its activities, a non-resident is obliged to submit to the state tax authority: (i) an application for its registration as a PE; (ii) an agreement/ a power of attorney to act in Uzbekistan on behalf of a non-resident legal entity; and (iii) the contract under which the obligations led to the formation of a PE (if any). As part of its registration, the PE receives a TIN (Taxpayer Identification Number) to pay its taxes in accordance with the Tax Code and the international agreements on avoidance of double taxation, concluded between the Republic of Uzbekistan and the governments of 53 countries, as applicable. It should be noted that in the aforementioned agreements, the period after which a PE is considered to be established might vary (the countries that are parties to such agreements set the period in years instead of 183 days). After the TIN is received, it is recommended to obtain an electronic digital signature in the Public Service Center. An electronic digital signature is necessary to confirm a PE's applications to obtain permissive documents (such as the licence for the development of architectural and urban-planning documentation and the permit to employ foreign labour).

1.3. Organization of payments: opening a bank account

According to the requirements of civil legislation of the Republic of Uzbekistan, legal entities in Uzbekistan may carry out their payments only in non-cash form. In this regard, companies need to open an account with a bank of Uzbekistan to carry out their transactions. Legal entities have the right to choose banks for their settlement and cash services and to open current accounts and savings, term and other deposit accounts in both the national currency and foreign currencies with one or more banks.

The main deposit account is opened in the national currency upon submission of required documents, and subsequent secondary accounts can optionally be opened in the national currency or foreign currencies.

In order to open an account, resident legal entities must submit to the bank the following documents: (i) an application for opening an account; (ii) two copies of cards with sample signatures in the established templates; and (iii) an identity document (the passport or a substituting document) of a person authorised to sign payment documents on behalf of the client. Legal entities are also entitled to open a temporary account to form their fund prior to their state registration. The list of documents to be provided by PEs of foreign construction companies to open a bank account is mostly similar – an additional document to be provided by them to the bank is a copy of

the certificate of TIN assignment. Documents for opening accounts may be submitted either directly by the persons specified in the card with sample signatures or by persons acting on the basis of a power of attorney.

1.4. General characteristics of the requirements to the contractor (certification, licensing, other permits)

Companies that are going to engage in design or construction in Uzbekistan must comply with the requirements for issuance of permission documents by the state authorities. In recent years, the legal requirements for permits in the field of construction and the procedure for their issuance have significantly changed in Uzbekistan. To carry out construction activities, companies must obtain licences only in the following exceptional cases:

design, installation, commissioning, renovation and maintenance of fire-fighting automation, security, fire and fire alarm systems;

- design, construction and renovation of main gas pipelines, oil pipelines and oil product pipelines;
- design, construction and renovation of bridges and tunnels;
- design, construction and renovation of defense facilities;
- design, construction of high-risk facilities and potentially hazardous industries; and
- renovation, construction and installation works at heights by methods of industrial mountaineering.

There is a separate procedure for obtaining a special licence for the design and construction of each of the above-mentioned facilities. Licences for licensed types of activities are issued as follows:

- for all stages of construction (*i.e.* design and construction); and
- for a separate stage of construction (*i.e.* design or construction).

Moreover, in order to engage in design, a company must obtain a licence to carry out activities for the development of architectural and urban-planning

documentation. General licences for the development of urban-planning documentation are issued depending on the complexity of the object. In Uzbekistan, the Classification of Complexity Categories of Objects for Design, Survey and Construction Works of 2016 was approved, according to which the objects are divided into three (3) categories of complexity: category I – objects with a low risk factor; category II – objects with an average risk factor; and category III – objects with a highest risk factor. The licence is issued for an unlimited period for all stages of design or for separate sections of architectural and urban-planning documentation.

A company first applying for this licence can only get a licence for the design of objects of complexity categories I and II. To obtain category III, a potential recipient, having operated for one year, must necessarily have an experience of implemented projects in Uzbekistan. In particular, an applicant must have a licence with a lower risk factor for at least one year as well as all the work performed on the design of at least ten objects.

To obtain a licence, applicants, depending on the complexity level of the relevant object, are required to have:

- assigned number of employees with relevant experience;
- appropriate material and technical base; and
- sufficient number of completed projects (for the design of objects of complexity category III).

In addition, starting from the mid of 2019, project companies are required to employ at least two (2) certified specialists or be members of the Association for Consultancy and Engineering.

It is important to mention that companies wishing to engage in the design of the facilities mentioned in the beginning of this section can obtain the appropriate special licences without a general licence to carry out activities for the development of architectural and urban-planning documentation.

In recent years, Uzbekistan has been constantly improving its legislation in the field of construction. In this regard, Presidential Order dated 22 May 2018, No. UP-5445 (hereinafter “Presidential Order No. UP-5455”) was adopted. According thereto, the National Agency for Project Management

has the right to simultaneously allow contractors, including foreign ones, to implement projects, which are included in the State Development Programs of the Republic of Uzbekistan, on a “turnkey” basis (Engineering Procurement Construction - EPC) by the “fast-track” method (simultaneous design, procurement and construction works), without obtaining a licence and/or permission in the construction sector.

In order to obtain such allowance, contractors must meet the following requirements:

- take full responsibility for the quality of their projects;
- have practical experience in similar projects,
- have certain financial indicators; and
- have appropriate number of engineers.

Currently, specialists in the field of design and construction are not subject to licensing. Nonetheless, Presidential Order dated 14 November 2018 UP No. UP-5577 “On Additional Measures to Improve the State Regulation in the Construction Sector” (hereinafter “Presidential Order No. UP-5577”) already provides for the adoption by the end of 2019 of a regulation on the mandatory and voluntary certification of specialists in the design and construction sectors and in spheres that are interrelated to the design and construction (such as professionals carrying out the appraisal of design documentation and specialists in specific areas).

In accordance with Presidential Order No. UP-5577, from the beginning of 2019, foreign construction enterprises and professionals do not need to get required permits (licences and certificates) to operate in Uzbekistan, if such documents were issued to them by the competent authorities in the countries of Organization for Economic Cooperation and Development (hereinafter the “OECD”). However, the uniform procedures for the implementation of novelties specified in the above-mentioned Presidential Orders have not yet been adopted.

2. DESIGN DOCUMENTATION

2.1. General requirements and development procedure

Design assignment and initial permissive documentation

The first stage of documentation development is the preparation of a design assignment. A design assignment is prepared by the initiator (customer) together with the relevant Ministry or authority. Design assignment includes, inter alia: (i) basic project data; (ii) basic requirements; (iii) composition and specialization of the relevant enterprise; and (iv) options for project implementation, and timeline. Despite the fact that the list of data and requirements that a design assignment must contain is specified in the Regulation to the Presidential Decree dated 20 February 2018 No. PP-3550 (hereinafter “Presidential Decree No. PP-3550”), it can be changed depending on the specifics, complexity and purpose of the designed object.

Initial permissive documents (initial permits) must be attached additionally or attached to the design assignment. They can be prepared by the initiator or by persons engaged in this type of activity on a contractual basis.

The package of initial permits consists of:

- application of a person interested in the provision of a land plot, addressed to the municipal authority (called “Khokim”) of the district/city at the location of the requested land;
- minutes on the choice of a land plot;
- copy of the decision of the relevant public body authorised to approve materials for the selection of the land plot;
- topographic and geodetic survey of the land;
- architectural and planning assignment, part I (“APA-I”);
- topographic and geodetic survey of the routes of external supply utilities from the connection points; and
- architectural and planning assignment, part II (“APA-II”).

APA-I defines general requirements for the appearance of buildings or structures, the approximate area of development, parking lots, entrances and exits from the territory, structures of small architectural forms, landscaping, amenities of land, etc. APA-II) defines the basic requirements for the route and laying of engineering communications. Designing an object, except for objects of individual housing construction, without obtaining APA-I and APA-II is forbidden in Uzbekistan.

Development of design documentation

Design of construction objects can be developed in one (1) or three (3) stages according to the complexity of object. It is exactly specified in the design assignment. The first two stages of developing the design documentation are preparations of pre-design documentation – the preliminary and final feasibility study or preliminary and final technical and economic estimate, and the last (third) stage is the development of design documentation – detailed design.

The designs are developed in one (1) stage for the facilities of social sphere, road transport, water-management, engineering and communication and other infrastructure, which are built with the use of a standard and re-applied projects, as provided by the master plans of settlements, regardless of the sources of their funding.

Technical and economic estimates are developed for the implementation of infrastructure projects for social facilities, road transport and engineering infrastructure, and individual projects. A feasibility study is created for investment projects that do not belong to the category of the above facilities.

In accordance with the Regulation “On the Order of Development, Complex Appraisal and Approval of Pre-Design and Design Documentation of Investment and Infrastructure Projects”, the pre-design documentation must consist of the following elements:

1. Project summary;
2. Introduction;
3. Marketing section;

4. Technical and technological section;
5. Environmental section;
6. Institutional Section;
7. Architectural and construction section;
8. Financial section;
9. Economic section;
10. Social section;
11. General conclusions under the project; and
12. Annexes.

Annexes to the project must include:

- (i) the legal documentation, including the Charter and the Foundation Agreement of and the relevant enterprise; and the licence (if required);
- (ii) cash flow forecast for the enterprise (borrower), taking into account its ongoing and planned projects, justifying the adequacy of own funds to finance such projects;
- (iii) commercial offers (price lists, etc.) for the equipment purchased and/or contracts concluded (if any);
- (iv) complete annual financial statements of the company (borrower, investors, sureties, guarantors of the project) for the last two (2) years, confirmed by the state tax authority;
- (v) information on foreign partners (founders);
- (vi) conclusion of the State Committee of the Republic of Uzbekistan on Ecology and Environmental Protection; and
- (vii) other documents, if necessary.

All stages of design must be developed in accordance with the construction and town-planning standards and rules, known as SNiP, KMK and SHNK, and the state standards "Ozdst". Starting from 2019, the programs for revision of old standards and regulations have been approved in Uzbekistan. The programs include the adoption of international standards, such as ISO and EN.

2.2. Coordination / appraisal / approval

Coordination of design documentation

The next mandatory stage after the development of design documentation is its coordination by the territorial architectural and urban planning councils for compliance with APA-I. The documentation of all types of construction, irrespective of forms of ownership and sources of financing, and parcels of land on which construction is carried out are subject to coordination. Coordination is not required in cases of:

- construction of separately constructed facilities with a construction volume of not more than 300 m³, which does not require changes to existing utilities;
- construction of objects of category of complexity I;
- construction of individual housing; and
- re-construction and major repair of buildings, structures and other facilities.

In order to coordinate the documentation, it is required to apply to the Public Service Center or online through the SPIPS by completing the relevant established form and attaching the architectural part of the design estimate documentation, certified by a digital signature. After paying a fee of 30% of the BCV, the applicant receives the agreed documentation within a week.

In some cases, additional coordination of the design documentation with other government agencies is required. Depending on the specifics of the object, the coordination can be carried out by the Ministry of Health – for compliance with the sanitary and hygienic standards, or the Ministry of Internal Affairs – for changing transport links. When erecting a hazardous

production facility, it is also necessary to obtain an expert opinion on industrial safety. In addition to the above, permits are issued in Uzbekistan in order to change the appearance of buildings and to re-assign and reconstruct an object.

Appraisal of design documentation

The next important stage in the development of design documentation is its appraisal. There are two (2) types of appraisals carried out in Uzbekistan – (i) complex appraisal; and (ii) state appraisal. Below we address each of them separately.

It should be noted that the appraisal of construction projects may be carried out by legal entities accredited in accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated 7 May 2019, No.381, based on a certificate. Such legal entities are required to meet the established accreditation requirements, namely: (i) not to have public servants among the founders and beneficiaries of the appraisal bodies; (ii) to have the appropriate material and technical base; (iii) to have a staff of at least five (5) professionals with experience of more than five (5) years. The certificate is issued by the Ministry of Construction of the Republic of Uzbekistan (hereinafter the “Ministry of Construction”) for a period of five (5) years.

The complex examination is carried out by the State Unitary Enterprise (SUE) “Center for Complex Appraisal of Projects and Import Contracts within the Ministry of Economy and Industry of the Republic of Uzbekistan” (hereinafter the “Appraisal Center”). The complex examination is required for an investment and infrastructure project:

- financed by budget funds of the budgeting system of the Republic of Uzbekistan:
 - o to the extent of appraisal of the standard project, if a standard (*i.e.* social facilities and housing) and re-applied project is used for the infrastructure project. In this case, such project’s appraisal to the remaining extent is carried out in SUE “Appraisal of Urban-Planning Documentation” following the procedure of state appraisal;

- o where an individual or another investment or infrastructure project is worth UZS10 billion (approximately USD1,061,000 as of the date hereof) or more. Projects with a cost of less than UZS10 billion are subject to examination by SUE “Appraisal of Urban-Planning Documentation;
- implemented under a separate decision of the President of the Republic of Uzbekistan, providing for tax and other benefits;
- implemented by an enterprise with the state share in its authorised fund being more than 50%, or an enterprise owning 50% or more of the shares in the authorised fund belonging to a legal entity with the state share of 50% or more – for a project with its cost equivalent to more than USD 5 million;
- providing for the extraction and/or processing of strategic minerals.

Furthermore, pursuant to Presidential Order No. UP-5577, the appraisal of the estimated part of construction projects is mandatory for all construction projects, with the exception of objects constructed at the expense of direct investments, including foreign direct investments.

However, projects under production sharing agreements, projects carried out with the participation of international financial institutions, and projects carried out by private entrepreneurs are not subject to complex appraisal.

The design assignment, on the basis of which the design documentation is developed, the pre-design documentation and design documentation are subject to complex appraisal. For infrastructure and investment projects, the design assignments are examined within 15 days and no fee is charged for the examination. The appraisal of feasibility studies and technical and economic estimates takes about thirty (30) days and is made after payment of a fee of 0.03% of the project cost. At this stage, the social significance of the erected object, its efficiency and compliance with the requirements of the legislation of the Republic of Uzbekistan are checked.

The urban-planning documentation is subject to state appraisal as follows:

- in case of complex appraisal of objects erected completely or partially at the expense of centralized investments and objects erected

without centralized investments where the customer is the organization with the state participation;

- for all other facilities - for the purpose of their compliance with the fire safety and seismic resistance requirements, regardless of sources from which their construction is financed.

The terms of state appraisal are as follows: for feasibility studies and technical and economic estimates – two (2) weeks, and for projects requiring their appraisal for compliance with the fire safety and seismic resistance requirements – one (1) week. The state expertise bodies may engage, on a contractual basis, relevant organizations, scientists and freelance experts to conduct the state appraisal. They also can create temporary expert groups among them.

The result of the state appraisal is a consolidated expert opinion on compliance with all of the established requirements. The opinion is considered valid for two (2) years.

After receiving a positive opinion of the examination of design assignment, the design assignment is approved by the customer. Upon receipt of opinions on the pre-design documentation, the customer prepares and submits, in the established manner, a draft decision on the approval of the parameters of the feasibility study/technical and economic estimate of the project.

3. CONSTRUCTION OF A FACILITY

3.1. Main stages of construction

A construction project in Uzbekistan is implemented in several stages, which are as follows:

- obtaining the right to a land plot;
- selection of contractors and conclusion of a design and survey works/construction contract;
- development and expertise of a project;

- notification of commencement of construction and installation works;
- receiving a contract for state supervision;
- implementation of construction works;
- commissioning of a construction facility and receipt of the commissioning act for the completed construction facility; and
- registration of rights to construction facility.

Set forth below is a brief overview of some stages.

Obtaining the right to land plot

Where a construction company is going to carry out the construction of an object which does not require a special licence, the first stage for it will be to obtain a land plot. Since in Uzbekistan, land plots are the property of the state, the right to grant them belongs exclusively to it. Moreover, land plots are provided to the private sector only for permanent or urgent (temporary) use.

In early August 2019, the Law “On Privatisation of Non-Agricultural Land Plots” was adopted in Uzbekistan. With the adoption of this Law, individuals and legal entities – residents of the Republic of Uzbekistan, have the opportunity to privatise the land on which the objects belonging to them on the right of ownership are located. Thus, in the near future, the receipt of land plots will be possible both from the state and individuals.

A land in Uzbekistan can be obtained as follows:

- it can be purchased from the state. At the same time, the right to permanent use of land can be obtained through an online auction or, where a project is included in the state development program, the necessary rights to land can be obtained from the local executive bodies;
- a land plot can be independently chosen in the secondary rental market. Soon, in connection with the adoption of the above Law, it will be possible for citizens and residents of the Republic of Uzbekistan to purchase a land plot into private ownership.

**Selection of contractors and conclusion of a design and survey works/
construction contract**

At this stage, contractors are selected on a competitive basis, with which a contract for design and survey works and for construction is concluded. When concluding a contract for design and survey works, the customer undertakes to provide the design assignment and necessary initial permissive documentation to the contractor, to pay for, and accept, the prepared design and initial permissive documentation. The design assignment may also be prepared by the contractor himself and, in this case, the design assignment becomes binding on the parties upon its approval by the customer. The contractor, in his turn, undertakes to perform contractual works a quality manner and in time and coordinate the design documentation with the customer.

If under a construction contract, the contractor is not obliged to perform the work(s) thereunder personally, the contractor has the right to involve sub-contractors. In this case, the contractor acts as the General Contractor. The General Contractor is liable to the sub-contractor for an improper performance by the customer of its obligations under the contract and to the customer—for any consequences of improper performance by the sub-contractor of its obligations under the contract.

In case of construction, the contractor is the owner of an unfinished construction facility before its delivery to the customer and payment. And it is the contractor who is obliged to insure the provided object or complex of works at his own expense, unless otherwise specified in the contract.

Notification of commencement of construction and installation works

According to the previously existing rules in Uzbekistan, before starting construction, it was necessary to obtain a permit for construction and installation works. Starting from 1 March 2019, a simplified procedure in this regard has been introduced. Now it is only necessary to notify the state authorities about the commencement of construction and installation works.

A customer or a construction company embarking on construction works must give, either through the Public Service Centre or the SPIPS, notification of commencement of construction works. Such notification, must include information on the applicant and the facility. Previously, the deci-

sion in respect of notification was made by the Ministry of Construction within five (5) working days. Now companies can immediately begin their construction. Nevertheless, it is possible to change the conditions of construction, of which the state authority was notified, only with additional prior notice thereof.

Concluding a contract for state supervision

When sending notification to the competent authorities in Public Service Centers or SPIPS, its sender (*i.e.* applicant) fills in the form of a contract, on the basis of which the Ministry of Construction will exercise supervisory functions over compliance with the requirements of the legislation of the Republic of Uzbekistan on urban development and technical regulations of the Republic of Uzbekistan in the field of urban development. Conclusion of the contract takes only one day.

Architectural and construction supervision

Architectural and construction supervision in Uzbekistan is required during all stages of construction of objects with medium and high risk factor. Inspections in this regard are carried out by the State Committee of the Republic of Uzbekistan on Architecture and Construction with a frequency of not more than four (4) times per year – for objects of category of complexity II and not more than five (5) times – for objects of category of complexity III.

The state architectural and construction supervision is carried out in the form of a planned inspection (total duration – no more than ten (10) days per year), a short-term inspection (without any interference in the financial and economic activities of the relevant company and continuing one (1) day) or an inspection in the context of monitoring. Inspections in the context of monitoring are carried out by the authorised state body in order to eliminate violations identified by a planned or short-term inspection.

An inspector of the authorised body on supervision carries out the state architectural and construction supervision of a construction facility to check compliance of the quality of construction works performed by a construction company/sub-contractor with the construction standards and rules and the relevant national standards and specifications.

If the inspection results are positive, an act of compliance is drawn up. In case of detection of non-compliance of performed works with the required standards or documentation, the relevant person may be required:

- to suspend the construction;
- to eliminate detected violations; and/or
- to provide the relevant permissive documentation.

In addition, an inspector is empowered to assign tests of conformity of building materials, products and structures to the mandatory requirements in respect thereof. Such tests are carried out in special laboratories within a period not exceeding 30 (thirty) days.

Commissioning of a construction facility and receipt of the commissioning act for the completed construction facility

After the completion of the construction, a customer, with the participation of the contractor, must inspect and accept the work performed or, if deficiencies in such work are detected, notify the contractor thereof. After that, the customer prepares a commissioning act for the construction facility. In the course of its preparation, it is important to specify all detected deficiencies in the act; otherwise, the customer will not be able to make demands for their elimination.

Then the state commissioning of the construction facility takes place according to the “Administrative Regulation on the Provision of Public Services on the Commissioning of Buildings and Constructions after Completed Construction (Re-construction)”.

A commissioning application can be submitted through the Public Service Center, or online – through the SPIPS. In doing so, an applicant must complete the established form and pay a fee of 30% of the BCV.

On the basis of the application, the relevant district branch of the State Enterprise of Land Management and Cadastre draws up a draft commissioning act. Then the city construction departments and the territorial bodies in the area of the state sanitary supervision, fire supervision and inspection in the sphere of construction coordinate such draft commissioning act. In case

of objects of individual housing construction, the above territorial bodies are not involved and draft commissioning act in respect thereof are coordinated only with the city construction departments. Previously, a commissioning act for a completed construction was required to be approved by a decision of the Khokims. Currently, this requirement has been canceled and, as a result, the acceptance process takes only about (nine) 9 or ten (10) days.

Registration of rights to construction facility

In Uzbekistan, the rights to a building/construction after its completed construction and commissioning in accordance with the established procedure are subject to state registration. The commissioning act serves as the basis for the registration of such rights.

Unfinished buildings and structures located on land plots which are purchased on a single electronic trading platform “E-IJRO AUKSION” and for which the winners of the electronic auction have particular obligations as well as illegally occupied land plots are not subject to state registration.

State registration of the ownership rights and other proprietary rights to buildings/structures is carried out by making in the Register a record of the relevant rights of a particular legal entity or individual to such buildings/structures and issuing an extract therefrom to the applicant.

The Presidential Decree dated 5 February 2019, No. PP- 4160 introduced the mechanism, according to which, starting from 1 March 2019, the commissioning act for buildings/structures after completion of their construction must be issued simultaneously with the extract from the State Register of rights to real estate. Following this, in June, 2019, the Resolution of the Cabinet of Ministers No. 478 facilitated the introduction of corresponding amendment to the Administrative Regulation.

According to the updated version of the Regulation, there is no need to apply separately for registration of the rights to real estate. The branch of the State Enterprise of Land Management and Cadastre within one working day from the date of receipt of the draft act in coordination with the construction authority and authorized bodies carries out the state registration of rights to real estate. The commissioning act and an extract from the State Register of rights to real estate, confirming the state registration of the relevant right, are then sent to the applicant through e-mail or pro-

vided in paper form in Public Service Center. As a result, the introduced changes have put the legal framework for the streamlined procedure in place, whereas the practical measures are still to be implemented in order to enhance the intergovernmental coordination of the existing systems that will ensure the simultaneous issue of the commissioning act and the extract from the State Register of rights to real estate.

3.2. Specificities of construction of particular facilities

As mentioned above, the design and construction of a number of facilities requires a special licence. In order to obtain such licence, it is not necessary to obtain a licence for the development of architectural and urban planning documentation. The licensed types of construction include all stages of construction of:

- high-risk facilities and potentially hazardous industries;
- fire-fighting automation, security, fire and fire alarm systems;
- main gas pipelines, oil pipelines and oil product pipelines;
- bridges and tunnels;
- defense facilities; and
- at heights, by methods of industrial mountaineering.

Since in practice, a licence for the construction of high-risk facilities and potentially hazardous industries is most common, set forth below is the procedure to obtain it.

To obtain a licence for the construction of high-risk facilities and potentially hazardous industries, it is necessary to collect a package of documents and submit it, whether in person or by mail, to the Ministry of Construction. The package of documents consists of the following:

- an application for the licence;
- a copy of the applicant's state registration certificate or a document confirming the applicant's registration as a PE with the tax authorities

of the Republic of Uzbekistan or a certificate of the representative office's accreditation, as applicable;

- a document confirming the fee payment for the consideration of documents;
- the list of employees engaged in the design, construction and operation of high risk facilities and potentially hazardous industries, indicating their positions, education and professional work experience, and a list of the main facilities in the design of which such employees participated; and
- the list of technical means necessary for the design, construction and operation of hazardous production facilities, indicating their characteristics.

Upon submission of the above documents, a fee for their consideration must be paid in the amount of one (1) BCV. The term of consideration of documents does not exceed 30 days. After the decision to issue a licence is made, a state fee of 10 BCVs must be paid. The licence is issued for a period of five (5) years.

Set forth below are the requirements for an applicant:

- mandatory compliance with the requirements of the legislation of the Republic of Uzbekistan on urban-planning, labor protection, nature protection, and subsoil and the relevant state standards and the urban-planning standards and regulations; and
- the availability in its staff of the relevant specialists (such as, chief engineers and chief architects of the project, designers, technologists, and specialists in engineering equipment, networks and systems and special sections of the project) who have appropriate professional education and at least 5 years of work experience in the activities to be licensed.

4. FEATURES OF THE CONCLUSION AND EXECUTION OF THE CONSTRUCTION CONTRACT WITH A NON-RESIDENT CONTRACTOR

One of the features of attracting legal entities – non-residents for the provision of contract services is the conclusion of a foreign trade (import) contract. A certain category of import contracts is subject to appraisal by, and registration with, the, Appraisal Center. Data on the contract are entered into a Single Electronic Information System of Foreign Trade Operations in accordance with Presidential Decree No. PP-3550.

An import contract and additional agreement thereto must be appraised by, and registered with, the Appraisal Center if:

- its amount exceeds an equivalent of USD50,000 and it is concluded by strategic buyers, as approved in Presidential Decree dated 22 January 2018, No. PP-3487, or organizations in the authorised fund of which there is a share of a strategic buyer;
- its amount exceeds an equivalent of USD100,000 and it is concluded by the state bodies, budget organizations, recipients of budget funds allocated for the implementation of procurement procedures, or the state trust funds, or state enterprises or legal entities with the state share in the authorised fund being 50% or more, or legal entities in the authorised fund of which 50% or more belongs to a legal entity with the state share being 50% or more;
- its amount exceeds an equivalent of USD100,000 and it is concluded at the expense of the budget of the budgeting system of the Republic of Uzbekistan, the Fund for Financing of State Development Programs of the Republic of Uzbekistan, or the Fund for Re-construction and Development of the Republic of Uzbekistan.

Projects (i) relating to the purchase of products and services under production sharing agreements and through foreign direct investments; or (ii) implemented with the participation of international financial institutions and foreign government financial institutions are not subject to state appraisal.

To ensure that an import contract be registered within a period of not more than thirty (30) days from the date of signing the contract and/or additional

agreement, an applicant needs to apply to the Appraisal Center and provide the necessary documents. The content of an import contract must comply with the requirements specified in Presidential Decree No. PP-3550. The text of an import contract must be either in the state (*i.e.* Uzbek) or Russian language, or, as an alternative, can be in two languages (Uzbek and Russian) in the form of a parallel translation. If the text of an import contract is made in another language, the import contract must be translated into Uzbek or Russian language and certified by a notary in accordance with the established procedure.

Upon receipt of the customer's documents and payment for its service, the Appraisal Center conducts an examination of the import contract within twenty (20) days and then registers it within three (3) days. Thereafter, an import contract and an additional agreement thereto (if any) are assigned an identification number(s) and entered into the Single Electronic Information System of Foreign Trade Operations.

Moreover, if the contractor is selected on a tender basis, the public procurement tender documentation of certain category is also subject to appraisal by the Appraisal Centre in the separate procedure.

Another feature of attracting a foreign legal entity is the creation of a PE. As mentioned above, a PE is created exclusively for tax purposes and is subject to registration with the tax authorities of the Republic of Uzbekistan. For a contractor, each construction site from the date of commencement of its work(s) is considered as a separate PE (for more information, please see paragraph 1.2 above). In addition, if a customer decides to hire foreign specialists in the field of construction, a permit to attract foreign labor will be required. The permit is issued by the Agency for External Labor Migration of the Republic of Uzbekistan. This is described in more detail in paragraph 1.1.

In terms of impediments in practice, it should be noted that non-resident contractors might face difficulties with the execution of a contract due to the imperfection of the national legislation. For example, pursuant to Presidential Order No. UP-5445, contractors, including foreign ones, can be allowed to implement projects, which are included in the State Development Program of the Republic of Uzbekistan, on a "turnkey" principle (hereinafter "EPC-contractors") by the method of "fast-track" (simultaneous design, procurement and construction work), without obtaining the corresponding

licence and/or permit(s) in the construction sector. More specifically, they are not required to obtain a licence for the development of urban planning documentation in the manner, as specified above in paragraph 2.2 for the design stage. However, no relevant amendments to the national legislation, resulting from the adoption of the above Presidential Order No. UP-5445 have been made. Particularly, no amendment on abolition of the requirement for mandatory licensing of EPC-contractors was envisaged in the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan, dated 7 May 2019, No.381. Therefore, the local construction authorities often refuse to approve the design documentation developed by EPC contractors for the reason of absence of the above-mentioned licence for the development of the urban planning documentation.

5. FIDIC CONSTRUCTION CONTRACTS

Relations between participants in construction and, in particular, construction contracts in Uzbekistan are regulated by the Civil Code of the Republic of Uzbekistan. However, the provisions of the national legislation do not always take into account the specifics of relations with foreign contractors and, therefore, there is a need to apply the international professional standards to construction contracts. In this regard, Uzbekistan allows the use of contract forms developed by the International Federation of Consulting Engineers (the FIDIC).

Foreigners, including investors, contractors and lenders operating in the construction industry, prefer to work using the FIDIC contract forms. It should be noted that compliance with the FIDIC standards and procedures is required for projects with participation of international financial institutions, with which Uzbekistan has been widely cooperating in recent years. It is known that a special application of the FIDIC agreement in Uzbekistan is found in infrastructure projects, including railway projects. However, in practice, the standard conditions of the FIDIC contracts can not be fully transferred to investment activity in the territory of the Republic of Uzbekistan as they have significant differences from some provisions of the Civil Code of the Republic of Uzbekistan.

Currently, Uzbekistan does not have a single mechanism for applying the FIDIC forms. For this reason, if there are any inconsistencies of the FIDIC contracts with the requirements of the national legislation, the FIDIC con-

tracts are always adapted to the legal provisions/rules operating in Uzbekistan.

In 2019, Uzbekistan began to negotiate the terms of its entry into the International Federation of Consulting Engineers. Accordingly, in the coming years, the introduction of a single procedure for the application of FIDIC contracts in Uzbekistan is anticipated.

6. UPCOMING AND IMPLEMENTED REFORMS IN THE CONSTRUCTION SECTOR

Currently, Uzbekistan is taking a number of measures to develop its construction sector. By the end of 2021, Uzbekistan plans to become one of the 50 leading countries in the world according to the indicator “*Obtaining construction permits*” of the World Bank Group report “Doing business”. As mentioned above, on 14 November 2018, Presidential Order No. UP-5577 “On Additional Measures to Improve the State Regulation in the Construction Sector” was issued. According to such Order, new procedures for a project appraisal, construction and commissioning were introduced and issues related to the licensing, certification, land allocation, tax benefits and principles for changing existing regulations are under discussion. Some changes have already entered into force; other changes will come into force on 1 January 2020.

In compliance with Presidential Order No. UP-5577, the regulatory framework for construction will be reformed in Uzbekistan. From 2019 to 2021, a preparatory stage for the reform will take place, during which the existing construction standards and rules will be revised and foreign construction regulations and technical documents will be adopted, taking into account the national characteristics. At the next stage, from 2022 to 2026, it is planned to introduce into practice adapted foreign construction documents along with the national construction standards and rules. By 2028, a single regulatory framework for technical regulation is expected to be created, based on generalised experience in the application of the national and adapted foreign construction standards and rules.

It was expected that from 1 January 2019, the Procedure for Recognition of Certificates and Licences for Design and Construction Activities issued by authorised bodies, organisations, societies and associations of the mem-

ber countries of the OECD be established. However, the above Procedure is still under development and, as a result, the recognition process is currently unclear.

Also, it was expected that from 1 March 2019, design organisations will be required to have at least two (2) certified engineers in its staff, and that a supervision, technical supervision and construction inspection of construction projects may be carried out only by specialists certified in the prescribed manner. However, the Procedure for Mandatory Certification of Specialists in the field of Design and Construction is anticipated to be introduced by the end of 2019 only. Such Procedure will not apply to contractors operating in the territory of the Republic of Uzbekistan in accordance with Presidential Order No. UP-5445, which are allowed to carry out construction works without the permissive documentation.

**SECTION 5.
THE REPUBLIC OF ARMENIA**

THE REPUBLIC OF ARMENIA

Contents

INTRODUCTION	175
1. ORGANIZATION OF CONTRACTOR'S ACTIVITIES IN THE REPUBLIC OF ARMENIA	175
1.1 Carrying out activities via incorporation of a legal entity or a representative office	176
1.2 Operation without incorporation of a legal entity.....	176
1.3 Settlement of payments in Armenia: opening a bank account	176
1.4. General requirements for a contractor (certification, licensing, other permissions).....	177
2. DESIGN DOCUMENTATION; GENERAL REQUIREMENTS, EXPERT REVIEWS, APPROVALS, ETC.....	177
3. CONSTRUCTION OF AN OBJECT	178
4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF A CONSTRUCTION CONTRACT WITH A NON-RESIDENT CONTRACTOR	180
5. FIDIC CONSTRUCTION CONTRACTS IN ARMENIA	180

Introduction

This Section is mainly intended to help international contractors intending to enter into civil works contracts in the Republic of Armenia (hereinafter sometimes referred to as the “RA” or “Armenia”) as well as construction supervisors and designers planning their first steps and setting tasks to their legal counsellor while entering into Armenian construction market. The below is not aimed at giving fully detailed legal advice for presumptive legal problems which they might face. The readers will find references to specific clauses of the laws of the Republic of Armenia (hereinafter “Armenian law”) herein. Thus the Clients/Employers and the Supervisors/Engineers also may find this information useful.

Armenian law is based on Common Law system. After getting independence the country got rid of irrational Soviet Civil Law and adopted completely new laws in almost all spheres that business activities needed to be regulated by law. You will find Armenian law simple to use and easy to interpret. Almost all your questions could be answered by consulting one law only. Need for crosschecking different laws on the same matter could rarely rise.

1. ORGANIZATION OF CONTRACTOR’S ACTIVITIES IN THE REPUBLIC OF ARMENIA

1.1 Carrying out activities via incorporation of a legal entity or a representative office

Armenian law does not differentiate rights of residents and non-residents to register local companies or to have shares in them. Registration process is carried out by State Registrar within 10 days after the application upon submission of the required documents. The required documents are IDs – for physical persons and founding documents and the respective power of attorney – for legal entities. All required documents shall have a notarised translation and shall be apostilled. For the CIS countries no apostil is needed.

Foreign companies can also act in Armenia by registering a branch, which is not considered a separate legal entity under Armenian law. The process of registration of a branch in Armenia is quite simple. After its registration,

the branch will have the rights and obligations of the legal entity. Upon registration of its branch, the relevant company will be treated as a resident of the Republic of Armenia and will be subject to taxation as local companies.

1.2 Operation without incorporation of a legal entity

As per Armenian law, there is no explicit restriction for foreign companies to perform activities in Armenia. However, to avoid further complications during the implementation of activities of a foreign company in the territory of the Republic of Armenia, it is recommended to register such company's branch or daughter company in Armenia.

1.3 Settlement of payments in Armenia: opening a bank account

Opening a local bank account in Armenia does not cause any difficulties. A new account owner shall only submit an ordinary set of documents, such as the founding documents and the signatory's powers. In addition, the absence of intentions of money laundering must be demonstrated by presenting the relevant contract(s) with local persons and the list of the beneficiaries and stakeholders of the company. All such documents shall be in Armenian or shall be accompanied by a notarised translation thereof into Armenian. It should be noted that the banks require the presence of the company director when signing the banking services contracts.

Armenian law does not forbid foreign companies to open accounts with local banks. However, foreign legal entities might increase bureaucracy for banks and, therefore, the banks almost always refuse them to open such accounts. This is another reason to register a branch or a daughter company.

As for foreign physical persons, there are no restrictions upon them for opening accounts with local banks. The personnel of a foreign company can make use of all bank services.

1.4. General requirements for a contractor (certification, licensing, other permissions)

Licensing

The activities that are subject to licensing are listed in the Law of the Republic of Armenia “On Licensing”, dated 27 June 2001, No. 193 (hereinafter the “Law on Licensing”), and include Construction, Construction Supervision and development of Detailed Design for construction.

For both construction and design, there are five (5) types of licences, which are as follows: 1) residential, public and production licence; 2) transport licence; 3) hydro-technical licence; 4) energy licence; and 5) communication licence. The set of documents required for a licence is quite simple and is as follows: an application, the company’s founding documents; and the documents proving the relevant education and experience of at least one specialist of the company. In case the documents submitted are complete, the licence will be issued within 23 days.

Foreign companies implementing activities requiring licensing may use their licence issued in their home country which is subject to special permission issued by the Government of Armenia (Article 7, point 6.1, Law on Licensing).

Licences issued by CIS countries for Construction, Supervision and Design works are recognised in Armenia and can be used without any additional approvals and/or permissions (Treaty between the members of the CIS “On Mutual Recognition of Licences for Construction Activities”, dated 17 January 1997).

2. DESIGN DOCUMENTATION; GENERAL REQUIREMENTS, EXPERT REVIEWS, APPROVALS, ETC.

Expertise of Detailed Design

Under Armenian law, the following three (3) types of expertise are stipulated: 1) Special Complex Expertise; 2) Complex Expertise; and 3) Simple Expertise.

Complex Expertise and Simple Expertise can be provided by a person holding a licence for expertise of civil construction documents.

Special Complex Expertise shall be provided by the temporary expert committee established by the RA Government Decree.

Complex Expertise is obligatory for those civil construction design documents which require not only civil construction activities but also implementation of the following: preservation of the environment and historical and cultural monuments; prevention of emergency situations; effective use of mineral resources, communications systems, transport, energy and other engineering infrastructures; industrial security; and implementation of technological and sanitary-hygienic measures. When defined by Armenian law, Complex Expertise includes the expertise of the environmental impact and the participation of stakeholders/interested bodies empowered to give an expert opinion under Armenian law (the RA Government Decree dated 06 May 2010, No. 711).

3. CONSTRUCTION OF AN OBJECT

Land Ownership Right

The RA Constitution acknowledges the land ownership right also for foreign companies and individuals. The land rights arise from either of the following: decrees of state and local self-government bodies; agreements concluded with the owners; antiquity of tenure; court acts. Real estate rights enter into force upon their registration with the State Committee of Real Estate Cadastre of the Republic of Armenia.

Construction objects

Construction objects are classified into the following five (5) risk categories, based on their volume, purpose, importance, level of difficulty, safety and environmental impact: 1) low risk, 2) moderate risk, 3) higher than moderate risk, 4) high risk, and 5) highest risk.

A detailed design for highest risk objects is subject to Special Complex Expertise.

Procedure for Granting Permits for Construction

Construction permits are issued by the head of the respective administrative area where the construction will be carried out upon submission of respective application for the permit (the RA Government Decree of 2015, No. 596). Together with the application, it is also required to submit the design documents and the positive conclusion of the Expertise. The permit will be granted within 15 days if all the required documents are submitted and the project conforms to the approved urban development strategy and urban development plans of the administrative area.

Designer Supervision

Designer supervision covers the whole process of construction ensuring the correspondence of construction implementation to the approved architectural and construction designs.

Designer supervision is carried out based on the Design Supervision Agreement signed between the Client and the Designer.

The Designer ensures the correspondence of the implementation of construction with the requirements and solutions of the approved design and resolves any issues related to the design raised during the construction process in coordination with the Client (the RA Ministry of Urban Development Order No. 143 dated 28 September 1998).

Technical Supervision

In Armenia, Technical Supervision is required for all construction objects where a construction permit is required by Armenian law.

Facility Acceptance

Construction completion is documented by a Completion Act for the construction objects requiring a construction permit. The Completion Act is issued by the head of the community. The exploitation permit is also issued by the head of the community and the actual exploitation is allowed only after formalisation of the exploitation permit. Upon the construction completion, the relevant property rights may be registered with the State Committee of

Real Estate Cadastre of the Republic of Armenia in accordance with the Law of the Republic of Armenia “On State Registration of Property Rights”.

4. PECULIARITIES OF CONCLUSION AND PERFORMANCE OF A CONSTRUCTION CONTRACT WITH A NON-RESIDENT CONTRACTOR

No restrictions or additional formalities for non-resident contractors are envisioned by Armenian law. Non-resident contractors can receive funds on their foreign bank accounts in a foreign currency without any complications. Nevertheless, after a construction contract is signed, it is preferable for a non-resident contractor to register its branch in Armenia to facilitate its operations.

5. FIDIC CONSTRUCTION CONTRACTS IN ARMENIA

Language and Foreign Law as the Law of Contract

The RA Law on Language dated 30 March 1993, No. 52) provides that the State language is Armenian. However, neither this Law nor other Armenian law provides anything on the choice of language for a contract. The parties are free to choose the contract language. Signing contracts in two languages where the prevailing language is the foreign one is widely applied, and is accepted by courts.

Documents subject to state control (in case of construction, it can be, for example, the design for construction) can also be in a foreign language if they are accompanied by an Armenian translation thereof (Article 4, Law on Language). In many cases, the local Client (even a state organization) accepts such documents in English only.

The RA Civil Procedure Code (Article 16) provides that the language of the hearings is Armenian and (Article 74) that written proofs shall be disregarded by the court, unless they are provided with their Armenian translation. This means that having a litigation on a foreign-language or two-language-contract with the prevailing foreign language, the parties thereto would have to deal with translation issues for the court.

As for the choice of law, Armenian law provides that if one of the parties is a foreign entity, the contracting parties are free to choose any law regulating their contract (the RA Civil Code, Article 1284). If there is no choice of law provisions a list of cases with obligatory assignment of applicable law is given (the RA Civil Code, Article 1285.1). For a civil works contract, this Article assigns the law of the contractor's country. However, the law of the state where the results envisioned by the contract are achieved shall apply to a contract for construction services and to a contract of services for the conduct of engineering and design work (the RA Civil Code, Article 1285.2).

Arbitration Recognition

Armenia is a member of the New York Convention of 1958 and, accordingly, arbitral awards made in its member countries are enforceable in Armenia.

Construction Laws and Norms

In accordance to a treaty signed between the CIS countries, Armenia acknowledges the standards known as GOST and SNIP. However, in major international projects, standards like AASHTO, etc. are widely applied.

In Armenia, there is no special law regulating the relations between the contractor, employer and sub-contractors, however there is a Chapter (37) in the Civil Code of the RA regulating those relations. Non-official English translations of the RA Civil Code are available on the Internet.

Laws and Regulations Used

Treaty between the members of the CIS "On Mutual Recognition of Licences for Construction Activities", dated 17 January 1997

1. Civil Procedure Code of the RA dated 09 February 2018, No. 110
2. Civil Code of the RA, dated 05 May 1998, No. 239
3. Law on Language of the RA, dated 30 March 1993, No. 52
4. Law on Licensing of the RA, dated 27 June 2001, No. 193

5. Law on Urban Development of the RA, dated 09 July 1998, No. 217
6. Law on Liability for Violations in the Field of Urban Development of the RA, dated 28 April 1999, No. 302
7. Decree of the Government of the RA of 2015, No. 596
8. Decree of the Government of the RA, dated 07 April 2011, No. 510
9. Decree of the Government of the RA, dated 06 May 2010, No. 711
10. Decree of the Government of the RA, dated 2 July 2009, No. 775
11. Order of Minister of Urban Development of the RA, dated 14 January 2008, No. 11
12. Order of Ministry of Urban Development of the RA, dated 28 September 1998, No. 143
13. Order of Ministry of Urban Development of the RA, dated 28 April 1998, No. 44



National Association of Construction Engineering Consultants is the first professional association in Russia that aims to harmonize the existing model of the engineering market in Russia with generally accepted international industry standards, by providing comprehensive consulting services, undertaking legislation initiatives, issuing professional standards and building a strong Russian expert community that can effectively adapt the best international practices and influence the legislative process in the field of construction engineering at the initial stage.

Besides, Russian branch of buildingSMART is based on NACEC. The main goal of buildingSMART is to drive transformation of the built asset economy through creation and adoption of open, international BIM standards. This contribution helps to deliver best contract practices inside and outside Russia.

Moreover, being the FIDIC Member Association NACEC develops global partnership in order to share experience for successful implementation of basic and brand-new (FAC-1) contracting strategies in global mega-projects.

NACEC holds a License Agreement to translate, reproduce and distribute and sell a translation of FIDIC documents. More than that NACEC is a holder of License Agreement for the creation and use of amendments necessary for FAC-1 to comply with Russian law and the creation and use of a Russian translation of FAC-1.

Contact information:

Address: Business Centre "LOTTE", 65/1,
Profsoyuznaya str., Moscow, Russia, 117342
Tel.: +7 (495) 771-74-72
Email: info@nacec.ru
Website: <http://nacec.ru>



AECU

Association of Engineering Consultants of Ukraine is FIDIC MA. AECU is represented by Ukrainian companies that act as independent engineers and consultants in the field of all types of buildings and ecology on a scientific basis and knowledge in the field of technology. The Association's activities are aimed at increasing the efficiency of investment projects, on the safety of construction projects, on increasing the prestige of the engineer's profession, on creating equal conditions for work in the Ukrainian market for domestic and foreign engineering consulting companies, as well as for the preparation of Ukrainian engineering consulting companies for work on foreign markets; on creation of the engineering consulting industry in Ukraine and integration into the global engineering consulting industry.

Kyiv, Ukraine, Bogomolsta Academy Str.
aecu.fidic@gmail.com
+380504942104