

THE FREE ECONOMIC ZONE OF THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL

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Free economic zones have become an essential part of the world economy in recent history. The voluntary entry of the Peninsula of Crimea into the Russian Federation as one of its constituent regions, lead to the adoption of the social and economic development commitments of this region by our state. For this reason, one of the most important goals for authorities of the Russian Federation is to develop the social, economic, and other spheres of the society. The establishment of the free economic zone in the Republic of Crimea and the Federal City of Sevastopol became one of solutions to this problem. This article analyzes the issues of legislation on the free economic zone in the territories of the Republic of Crimea and the Federal City of Sevastopol and aims to find solutions of these issues. This research is based on the application of comparative, retrospective and formal juridical analysis of the legislation and research papers dedicated to questions of the free economic zones and other territories with a special legal regime for conducting entrepreneurial activity (territories of advanced social and economic development, the Free Port of Vladivostok, special economic zones in the Russian Federation). In particular, the norms of current legislation on goals and terms of creation of the free economic zone in the territories of the Republic of Crimea and the Federal City of Sevastopol, the management of the free economic zone and the implementation of entrepreneurial activities within its borders were analyzed. We conclude that it is necessary to improve the current legislation on the free economic zone in the territory of the Republic of Crimea and makes several suggestions for optimization its provisions. The results achieved can be used both in the lawmaking process and as a foundation for further researches.

Keywords: free economic zone; Republic of Crimea; Federal City of Sevastopol; special regime of entrepreneurial and other activity in the free economic zone; special legal regime of the free economic zone; special economic zone.

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Introduction

Free and special economic zones are known throughout the world as one of the most effective instruments aimed at attracting investments into the national economy. As has been stated in economic research papers, free and special economic

zones operate all over the world and have become an essential part of today's world economy.¹ According to statistics, special and free economic zones operate in more than 120 countries around the world. The role of special and free economic zones in the optimization of modern economy is constantly growing, especially in the context of the current financial and economic crisis. According to experts' point of view, by 2020, free and special economic zones will account for 20 percent of the world's commodity turnover.²

It is worth mentioning that experts believe that existing special and free economic zones in Russia have already had primary positive effects. These zones contribute to: attracting foreign and domestic investors in these projects and, in turn, investments in the regional economy; increasing employment; enhancing the region's infrastructure and production capacity; and launching minor collaborative activities between companies inside and outside the free and special economic zone. According to S. Sosnovskikh, the creation of one workplace within the special economic zone leads to the creation of four to five workplaces outside the special economic zone. Investors predominantly pull employees from the local population, though they employ a small percentage of foreign staff.³ As a result, special and free economic zones in Russia have proved their usefulness and capacity to stabilize or even improve the current economic situation.

In this regard, the voluntary entry of the Peninsula of Crimea into the Russian Federation as one of its constituent regions lead to the adoption of the social and economic development commitments of this region by our state. This is why one of the most important goals of authorities of the Russian Federation is to develop social and economic and other spheres of the local society of the Republic of Crimea. According to the Decree of the Government of the Russian Federation "On Approval of the Federal Target Program 'Social and Economic Development of the Republic of Crimea and the Federal City of Sevastopol up to 2020,'" the Government of the Russian Federation is obliged to implement of a set of measures to integrate the regional economy of the

¹ See *Канустин В.Р.* Свободные экономические зоны [Vladimir R. Kapustin, *Free Economic Zones*] 34 (Moscow: Laboratoriya knigi, 2009).

² *Ростенко А.О.* Проблемы свободных экономических зон Крыма и пути их решения // Ученые записки Северо-Кавказской академии государственной службы. 2016. № 4. С. 275–279 [Aleksandr O. Rostenko, *Problems of Free Economic Zones in the Republic of Crimea and the Federal City of Sevastopol*, 4 Science Notes of the North-Caucasus Academy of Public Administration 275 (2016)].

³ Sergey Sosnovskikh, *Industrial Clusters in Russia: The Development of Special Economic Zones and Industrial Parks*, 3(2) Russian Journal of Economics 174 (2017).

⁴ Постановление Правительства Российской Федерации от 11 августа 2014 г. № 790 «Об утверждении федеральной целевой программы «Социально-экономическое развитие Республики Крым и г. Севастополя до 2020 года», Собрание законодательства РФ, 2014, № 33, ст. 4595 [Decree of the Government of the Russian Federation No. 790 of 11 August 2014. On Approval of the Federal Target Program "Social and Economic Development of the Republic of Crimea and the Federal City of Sevastopol up to 2020," Legislation Bulletin of the Russian Federation, 2014, No. 33, Art. 4595].

Peninsula of Crimea in to the national economy of the Russian Federation, remove infrastructural restrictions, and ensure sustainable economic growth.

One of the key aspects of this was an increase in the inflow of investments into the economy of the Republic of Crimea. One off the measures taken by the state for this purpose was the creation of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol in 2014 and the adoption of the Federal law of 29 November 2014 No. 377-FZ "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol."⁵ According to Art. 1 of this act, Federal law regulates relations arising in connection with the establishment and operation of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol as well as special aspects of conducting entrepreneurial and other activities in boundaries of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol.

Our study is based on the analysis of research papers and other literature devoted to the issues of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol and other territories with a special legal regime of conducting entrepreneurial activity: special economic zones in the Russian Federation, the Free Port of Vladivostok and territories of advanced social and economic development, and zones of territorial development. It is worth noting that current literature regarding the free economic zones in the Russian Federation, especially the zone of the Republic of Crimea and the federal City of Sevastopol, is very limited. There are only a few substantial research papers, which are either very outdated and only cover research on special aspects of Kaliningrad's free economic zone, or are descriptive and do not provide any specific empirical evaluations with application to the free economic zone of the Republic of Crimea and the Federal City of Sevastopol concept.⁶ Today, there are only a few research papers dedicated to the legal problems of regulating the free economic zone in the Republic of Crimea and the Federal City of Sevastopol.⁷ Most current research papers dedicated to these zones consider the

⁵ Федеральный закон от 29 ноября 2014 г. № 377-ФЗ «О развитии Республики Крым и города федерального значения Севастополь и свободной экономической зоны в границах Республики Крым и города федерального значения Севастополь», Собрание законодательства РФ, 2014, № 32, ст. 1221 [Federal law No. 377-FZ of 29 November 2014. On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol, Legislation Bulletin of the Russian Federation, 2015, No. 51 (Part III), Art. 7350].

⁶ See Sosnovskikh 2017.

⁷ See Комбарова Е.В. Деятельность органов управления свободной экономической зоной на территориях Республики Крым и города федерального значения Севастополя // Вестник Саратовской юридической академии. 2017. № 2(115). С. 67–71 [Elena V. Kombarova, *Activity of the Governing Bodies of the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol*, 2(115) Bulletin of the Saratov State Law Academy 67 (2017)].

subject of the study from an economic point of view.⁸ Although this is important, they do not cover the aforementioned legal issues.

For this reason, this paper is aimed at investigating issues of the current legislation on the free economic zone of the Republic of Crimea and the Federal City of Sevastopol and finding solutions to said issues. In doing so, the paper will fill the gap in the literature related to the legal aspects of the free economic zone of Crimea. The study has implications for policymakers not only in Russia but also in other developing countries. We begin with our introduction and methodology review, then consider some key aspects of the creation, definition, and special legal regime of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. This review is followed by a description of the advantages and disadvantages of legislation on the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. The last section concludes the paper and presents some recommendations for further research.

This paper is based on legal, comparative, and retrospective analysis of the current federal legislation on the free economic zone of the Republic of Crimea and the Federal City of Sevastopol, other special economic zones in the Russian Federation, the Free Port of Vladivostok,⁹ territories of advanced social and economic development, and zones of territorial development.¹⁰ These acts are as follows: Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," Federal law of 22 July 2007 No. 116-FZ "On Special Economic Zones in the Russian Federation,"¹¹ Federal law of 13 July 2015 No. 212-FZ "On the Free Port of Vladivostok," Federal law of 29 December 2014 No. 473-FZ "On Territories of Advanced Economic and Social Development of the Russian Federation."

⁸ Е.г., Горячих М.В. Создание и развитие свободных экономических зон в Республике Крым и городе федерального значения Севастополь: анализ и мониторинг деятельности // Научно-технические записки Санкт-Петербургского государственного университета. Серия «Экономические науки». 2017. № 4. С. 72–81 [Mikhail V. Goryachikh, *Creation and Development of Free Economic Zones in the Republic of Crimea and the Federal City of Sevastopol: Analysis and the Monitoring of Activity*, 4 Science and Technical Notes of the Saint Petersburg State University. Economic Science Series 72 (2016)].

⁹ Федеральный закон от 13 июля 2015 г. № 212-ФЗ «О свободном порте Владивосток», Собрание законодательства РФ, 2015, № 29 (ч. 1), ст. 4338 [Federal law No. 212-FZ of 13 July 2015. On the Free Port of Vladivostok, Legislation Bulletin of the Russian Federation, 2015, No. 29 (Part 1), Art. 4338].

¹⁰ Федеральный закон от 29 декабря 2014 г. № 473-ФЗ «О территориях опережающего социально-экономического развития», Собрание законодательства РФ, 2015, № 1 (ч. 1), ст. 26 [Federal law No. 473-FZ of 29 December 2014. On the Territories of Advanced Social and Economic Development, Legislation Bulletin of the Russian Federation, 2015, No. 1 (Part 1), Art. 26].

¹¹ Федеральный закон от 22 июля 2005 г. № 116-ФЗ «Об особых экономических зонах в Российской Федерации», Собрание законодательства РФ, 2005, № 30 (ч. 2), ст. 3127 [Federal law No. 116-FZ of 22 July 2005. On Special Economic Zones in the Russian Federation, Legislation Bulletin of the Russian Federation, 2005, No. 30 (Part 2), Art. 3127].

1. The Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol: Reasons for Establishment

The concept of special and free economic zones is not novel. Historically, these zones were created to attract investments in both national and regional economies. Its early, simpler version can be traced back to economic districts, which were later extended to a free trade format or export-processing zones. Since the 1960s, many countries, particularly in Asia, have used zones of this type to break away from an import-substitution development strategy and promote export-driven economic growth.¹² Establishment of the free economic zone in the Republic of Crimea and the Federal City of Sevastopol was directed at modernizing regional infrastructure, attracting foreign and domestic private investors, and at developing small and medium enterprises of the Republic of Crimea. According to the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," the purpose of its creation is to ensure sustainable social and economic development, to attract investment into the development of existing industries and create the new ones, to develop transport and other infrastructures, touristic and agriculture sectors, and medical resorts, and to improve the level and quality of life of citizens of the Republic of Crimea and create more favorable conditions for business and entrepreneurship (Art. 1).

As the development of the economy of the Peninsula of Crimea is largely determined by its unique natural conditions, this primarily includes development of the touristic and recreational sphere, grain farming, fishing, poultry farming, vegetable growing, etc. The Peninsula of Crimea has the potential to extract minerals, ferrous metallurgy, machine building and metalworking, shipbuilding, the chemical industry, the production of construction materials, the food industry, and the light industry. Unique geographic and climatic characteristics of the Peninsula of Crimea, as well as a rich historical and cultural heritage, make this region one of the most unique resort and tourist zones. Furthermore, the strategic position of the Republic in the Black Sea region gives the Peninsula of Crimea huge economic, political, and military significance.¹³

Despite the potential mentioned, the economy of the region has been virtually "drained" in recent years. Today, significant funds are being drawn from the federal

¹² R. Kirk, *Special Economic Zones and Economic Transformation: An Assessment of the Impact of the Special Economic Zones Program in Mozambique* 34 (Mozambique: Speed, 2009); Thomas Farole, *Special Economic Zones in Africa: Comparing Performance and Learning from Global Experiences* 67 (Washington: World Bank, 2011); Stephen Creskoff & Peter Walkenhorst, *Implications of WTO Disciplines for Special Economic Zones in Developing Countries* 123 (Washington: World Bank, 2011).

¹³ Батюшкова О.А. Свободная экономическая зона в Крыму: планы и первые результаты // Инновационная наука. 2015. № 5. С. 43–47 [Olga A. Batyushkova, *Free Economic Zone in the Crimea: Plans and First Results*, 5 *Innovational Science* 43 (2015)].

budget for investments in the development of the Peninsula of Crimea. As policy makers have stated, adoption of the Federal law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol” will solve the most important issues of the infrastructure development on the Peninsula of Crimea. Its adoption also helps to attract investors and investments and promotes the development of small and medium-sized business enterprises of the Republic of Crimea and the Federal City of Sevastopol in the Russian Federation as a whole.

In spite of the fact that the free economic zone of the Republic of Crimea and the Federal City of Sevastopol started functioning relatively recently, the total volume of capital investments in from agreements on the conditions of entrepreneurial and other activities in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol has been estimated as more than 73.5 billion rubles.¹⁴

According to statistics offered by the Ministry of Economic Development of the Russian Federation, at the current moment, entries have been made in the registry of participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol on more than 1,347 participants¹⁵ planning more than 39.5 thousand workplaces. The figures show that tax revenue for the budget of the Republic of Crimea amounted to 2,422.3 million rubles.¹⁶

2. The Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol: Definition and Unique Features of the Special Legal Regime for Conducting Entrepreneurial Activity

According to Art. 8 of the Federal law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol,” the special economic zone of entrepreneurial and other activities in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol is part of the territory of the Republic of Crimea and the Federal City of Sevastopol and the internal sea waters and the territorial sea waters of the Russian Federation adjoining the territories of the Republic of Crimea and the Federal City of Sevastopol with a special regime of business and other activities operating within its borders, and the customs procedure of the free customs zone is applied.

¹⁴ Rostenko 2016.

¹⁵ Единый реестр участников свободной экономической зоны на территории Республики Крым и города федерального значения Севастополя [Unified Register of Participants of the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol] (Aug. 5, 2018), available on <http://economy.gov.ru/minec/activity/sections/reestrsez/2016190202>.

¹⁶ Goryachikh 2016.

The free economic zone of the Republic of Crimea and the Federal City of Sevastopol has been established for 25 years.

The special legal regime of entrepreneurial and other activities in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol is applied by its participants (residents) and includes the following:

- special aspects of the implementation of urban development and land use when placing the objects necessary for the realization of investment projects by the participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. For instance, land plots belonging to the state and municipal property and necessary for business activity by participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol according to the contract on the conditions of conducting such activity provided for them without public bargaining;
- special taxation regime in accordance with the legislation of the Russian Federation on taxes and fees. According to the Federal law “On Amendments to the First and Second Parts of the Tax Code of the Russian Federation in Connection with the Adoption of the Federal Law ‘On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol,’”¹⁷ such taxes and fees are as follows. For the legal entity as a participant of the free economic zone tax privileges for profits have been set at 0 percent for 10 years. Also legal entities – participants of the free economic zone are exempted from payment of property tax for the first 10 years, if this property was created or acquired for the purpose of conducting entrepreneurial and other activity according to the contract on conditions of conducting entrepreneurial activity in the free economic zone. Participant of the free economic zone also exempted from the land tax for the first 3 years.¹⁸ Moreover, rates for social insurance are reduced for participants of the free economic zone;
- granting, in accordance with the procedure established by the budget legislation of the Russian Federation;¹⁹

¹⁷ Федеральный закон от 29 ноября 2014 г. № 379-ФЗ «О внесении изменений в первую и вторую части Налогового кодекса Российской Федерации в связи с принятием Федерального закона «О развитии Республики Крым и города федерального значения Севастополь и свободной экономической зоны Республики Крым и города федерального значения Севастополь»», Собрание законодательства РФ, 2014, № 48, ст. 6660 [Federal law No. 379-FZ of 29 November 2014. On Amendments to the First and Second Parts of the Tax Code of the Russian Federation in Connection with the Adoption of the Federal Law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol,” Legislation Bulletin of the Russian Federation, 2014, No. 48, Art. 6660].

¹⁸ Налоговый кодекс Российской Федерации (часть вторая) от 5 августа 2000 г. № 117-ФЗ, Собрание законодательства РФ, 2000, № 32, ст. 3340 [Tax Code of the Russian Federation (Part Two) No. 117-FZ of 5 August 2000, Legislation Bulletin of the Russian Federation, 2000, No. 32, Art. 3340].

¹⁹ Бюджетный кодекс Российской Федерации от 31 июля 1998 г. № 145-ФЗ, Собрание законодательства РФ, 1998, № 31, ст. 2823 [Budget Code of the Russian Federation No. 145-FZ of 31 July 1998, Legislation Bulletin of the Russian Federation, 1998, No. 31, Art. 2823].

– subsidies for the reimbursement of the expenses of the participant of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol, including the costs of payment of customs duties, taxes, and charges in respect of goods (excluding excisable goods) imported for use in construction, equipment, and technical equipment of facilities necessary for the realization of investment projects by the participants of the special economic zone of the Republic of Crimea and the Federal City of Sevastopol (Art. 5 of the Federal law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol”).

According to experts in this field, these huge benefits are intended to stimulate and develop business activity in the Peninsula of Crimea. The Government of the Russian Federation strives to create the conditions necessary to encourage the development of local small and medium-sized businesses and help them to adapt to Russian legislation, which is new for them. This level of state loyalty results from political and economic risks, including the imposition of sanctions, which demands a certain “compensation.”²⁰

If an entrepreneur or legal entity decides to become a participant of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol and utilize all the benefits of the legal regime of entrepreneurial and other activities in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol they have to enter a contract with conditions for conducting entrepreneurial activity with the federal government. The total volume of capital investments planned within the framework of the investment project and envisaging, in particular, the volume of capital investments in the first three years from the date of signing the contract on the conditions of conducting entrepreneurial activity in the free economic zone in the amount of as follows. If a participant of the free economic zone of the Republic of Crimea is a medium-sized or small enterprise, they must invest at least three million rubles; if a participant of the free economic zone is another sole entrepreneurial or business entity (but not medium and small enterprise), they must invest at least thirty million rubles.

3. Advantages of the Federal Law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol”

This act has many benefits for participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. First, the free economic zone of the Republic of Crimea represents a cluster because of the group of companies

²⁰ Goryachikh 2016.

operating in its boundaries. The cluster in the free economic zone consists of participants of this zone and other individuals (sole entrepreneurs and legal entities). These entities conduct activities which complement each other. According to experts, policymakers should initially construct free economic zones as a cluster. This is necessary to improve industry competitiveness and innovation capacity in regions. Industrial cluster policies are a key and widely used tool for economic development in local and regional economic development planning. In M.E. Porter's opinion, clusters are groups of geographically-proximate companies within a similar industry. The use of clusters makes it possible to enhance employment, diversify exports, and transfer technology and managerial know-how. Crucial elements of the cluster model include the provision of a collaborative and competitive environment, an appropriate geographical location and proximity to resources, related and supporting firms, and state regulations and strategic programs that facilitate innovation.²¹ The location of clusters should be prioritized according to factors such as cost reduction, profitability growth, and performance improvement, instead of simply choosing regions in dire economic straits. Strategic alliances, competition, and collaboration must be based on resource sharing and integration. The state and cluster companies should establish collaborative principles, which facilitate mutual efforts in innovation and R&D and, in turn, enhance the international competitiveness of companies or industries. Free economic zones are expected to develop high value-added products and services and brace themselves for market challenges.²²

Secondly, in accordance with Art. 3 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," a special regime of the free economic zone was established in boundaries of the free economic zone. The legal regime of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol consists of the following provisions:

- special aspects of regulation in the sphere of attracting foreign citizens to labor activity. These aspects are defined in the Federal law of 25 July 2002 No. 115-FZ "On Legal Status of Foreign Citizens in the Russian Federation"²³ and refer to specifically preferential treatment of foreign citizens labor activity;

- special aspects of entry in to the territory of the Republic of Crimea and the Federal City of Sevastopol and departure from these territories by foreign citizens. In accordance with the parts 2, 3 of Art. 5 of the Federal law "On the Development

²¹ Michael E. Porter, *Clusters and the New Economics of Competition*, 76(6) Harvard Business Review 77 (1998).

²² Sosnovskikh 2017.

²³ Федеральный закон от 25 июля 2002 г. № 115-ФЗ «О правовом положении иностранных граждан в Российской Федерации», Собрание законодательства РФ, 2002, № 25, ст. 1223 [Federal law No. 115-FZ of 22 July 2002. On Legal Status of Foreign Citizens in the Russian Federation, Legislation Bulletin of the Russian Federation, 2002, No. 25, Art. 1223].

of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," there are special provisions for entry and departure for special categories of foreign citizens. These categories are representatives of business entities or investors, and those who were invited to discuss opportunities for collaboration in the Republic of Crimea and the Federal City of Sevastopol. For these categories of foreign citizens, a special simplified method of giving visas is applied. For example, foreign citizens can receive a visa at the state border of the Republic of Crimea. It is worth noting that this procedure the same for foreign citizens, coming to the Republic of Crimea as tourists;

– special aspects of conducting business in the sphere of sea transport. Sea ports in boundaries of the Republic of Crimea and the Federal City of Sevastopol are recognized as free ports. This means that special customs procedure of the free custom zone are applied in the territory of the free port. Application of this procedure indicates that placing of several goods to the free custom zone implies releasing business entities from paying custom charges.

In addition, the special legal regime of conducting entrepreneurial activity has some additional features. As we know the free economic zone of the Republic of Crimea and the Federal City of Sevastopol was created to ease serviced land and infrastructural complexity that may prevent investment inflow into regional or national economies by providing potential investors with access to prebuilt manufacturing sites, necessary utilities (e.g., electricity, water, telecommunications, and sewage), and long-term leases. This zone also facilitates the administrative procedures associated with business registration, license acquisition, and access to key services, such as utilities and construction. They provide so-called "single-window" or "one-stop" services, meaning that their management takes full responsibility for coordinating all administrative procedures. Lastly, an essential component of the administrative services provided by zones is customs administration, which is commonly offered with fiscal incentives, with a customs officer inside or at the gate of the zone to perform customs clearance to speed up import and export operations.²⁴

And finally, it is necessary to note that the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol" provides the norm which regulates contracts covering the conditions of conducting entrepreneurial activity. For instance, Federal law "On the Free Economic Zone of the Region of Kaliningrad" and Federal law "On Zones of Territorial Development" do not have such a provision. Meanwhile, using a contract has a lot of benefits.

In modern conditions, the significance of these agreements and contracts on operating conditions for economic entities and the state is difficult to exaggerate.

²⁴ Sosnovskikh 2017.

The use of the contract as a regulator of relations between the participant of the special economic zone and authorized body contributes to the emergence and development of partnership relations. At the same time, a private partner acting under the contract as a counterparty is given the opportunity to agree on the conditions of conducting business, and to require the state to perform its duties, as well as to carry out entrepreneurial activity with conditions of special preferential treatment.²⁵ In this regard, it is appropriate to note the point of view of V. Laptev justifying the importance of the contractual form, the use of which makes it possible to appropriately take into account the interests of various parts of the economic system.²⁶

Furthermore, according to V. Kvanina, it is necessary both to attract interest of private investors by establishing some benefits and preferences, and to negotiate with them all conditions for cooperation to obtain a positive economic result. Private investors need to know in advance about all possible adverse consequences that may arise in the process of agreements.²⁷

In comparison, legislation on some territories with a special legal regime of conducting entrepreneurial and other activities enables agreement of conducting entrepreneurial activity between authorized bodies and business entities (future participant of the special economic zone), or between management company and business entity. These agreements are conducted within the boundaries of the special economic zone in the Russian Federation (Art. 12), the Free Port of Vladivostok (Art. 11), and territories of advanced social and economic development (Art. 13).

4. Problems of the Federal Law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol”

There are several problems that authorities of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol face. First, there are some essential social and economic problems. As regional authorities have stated, there is a shortage of affordable housing in the Peninsula of Crimea and the Federal City of

²⁵ Громова Е.А. Соглашение об осуществлении технико-внедренческой деятельности в особых экономических зонах [Elizaveta A. Gromova, *Agreement on the Implementation of Technical and Innovative Activities in Special Economic Zones*] 39 (Moscow: Yustitsinform, 2016).

²⁶ Лантев В.В. Предпринимательское право и реальный сектор экономики [Vladimir V. Laptev, *Business Law and the Real Sector of Economics*] 120 (Moscow: Infotropik Media, 2010).

²⁷ Кванина В.В. Соглашение об осуществлении деятельности на территории опережающего социально-экономического развития: проблемы отраслевой и содержательной определенности // Экономика. Предпринимательство. Окружающая среда. 2016. № 65. С. 88–91 [Valentina V. Kvanina, *Agreement on Conducting Business Activity in the Boundaries of the Territories of Advanced Social and Economic Development: Problems of Branch and Content Definability*, 65 *Economics. Environment. Entrepreneurship* 88 (2016)].

Sevastopol, which, in turn, discourages the arrival of new economic participants. Also, there is the issue of a shortage of infrastructure connected with system of transport and energy power. Furthermore, according to expert opinion, unsatisfactory coverage and low technical parameters of roadways and the low level of competitiveness of sea ports also has implications on the development of the free economic zone. These factors require significant modernization and substantial costs.²⁸

Secondly, there are a wide range of problems which are directly connected to the quality of provisions of the current legislation on free economic zones, especially in the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol." Meanwhile, the quality of norms of the basic act which regulates the free economic zone of the Republic of Crimea and the Federal City of Sevastopol is extremely important. Regretfully, analysis of this act revealed some disadvantages of its provisions.

4.1. Unreasonably Prolonged Existence of the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol

It is noteworthy that the timeframe for achieving the goal of establishing the free economic zone in the Republic of Crimea and the Federal City of Sevastopol is 25 years, as was mentioned previously. What is more, this period of time might be prolonged according to norms prescribed by the law on the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. This period is considerably shorter than the timeframe of the so-called "analogues" (territories with special legal regime of conducting entrepreneurial activity: special economic zones in the Russian Federation, the Free Port of Vladivostok, territories of advanced social and economic development). For example, the timeframe of special economic zones in the Russian Federation is 49 years. In turn, the timeframe of the Free Port of Vladivostok is 70 years, and it is the same for territories of advanced social and economic development. It seems that all the above time periods are unreasonably prolonged. In author's point of view, it seems that such a long period of the existence of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol does not ultimately contribute to the achievement of its goals. It is possible that the period of the existence of the free economic zone in the Republic of Crimea should be reduced, for example, to 10–15 years. This reduction would make it possible to achieve the goals of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol more effectively and efficiently. It seems that the same reduction could be applied to the timeframes of other territories with special legal regime of entrepreneurial activity: special economic zones, territories of advanced social and economic development, and the Free Port of Vladivostok.

²⁸ Goryachikh 2016.

4.2. Lack of Mechanisms of Compensations in Case of Possible Termination of the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol

It should be noted that, according to part 2 of Art. 9 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," the free economic zone can be terminated earlier if doing so is necessary to protect people's life and health, nature, and cultural values, or to ensure the country's defense and state security.

Meanwhile, there is no norm in the current legislation disclosing the consequences of early termination of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol for its participants (business entities and sole entrepreneurs). It should be added that the current legislation on special economic zones in the Russian Federation, the Free Port of Vladivostok, and territories of advanced social and economic development does not contain certain rules on such a mechanism.

At the same time, it seems that it is necessary to work out a mechanism to compensate the expenses of participants in the free economic zones. The aforementioned participants erected and invested into capital construction facilities, and, in addition, paid taxes throughout the existence of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. One possible method of solving this problem may be suggesting the extended use of tax and customs privileges by the participants of the free economic zone as one of options for compensation. Another method would be to establish a certain amount of compensation for former participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol due to the volume of investments made by its participants.

4.3. Absence of a Private Sector in the Expert Council on the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol

The management system of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol may raise doubts. According to some authors, the management of the free economic zones in foreign countries, along with other public authorities, is responsible for attracting investors and creating networks to promote such zones and, in turn, stimulate their social and economic growth. Additionally, most successful free economic zones use an anchor investor strategy where high-profile companies are invited to join at the initial stages of a zone's creation and management, thereby signaling the free economic zone's solidity to other potential investors and stressing this factor to provide them with a useful network of suppliers and partners.²⁹ Commonly, with this strategy, authorities of the

²⁹ Aradhna Aggarwal, *Promoting Agglomeration Economies and Industrial Clustering Through Special Economic Zones: Evidence from India*, 2(2) *Journal of International Commerce, Economics and Policy* 201 (2011); Antoine Basile & Dimitri Germidis, *Investing in Free Export Processing Zones* 23 (Paris: Development Centre of the Organisation for Economic Co-operation and Development, 1984).

free economic zones strive to attract the private sector to the management process. On the contrary, in the Russian Federation, the Government has played a vital role in the creation and management of free economic zones.³⁰

Therefore, as was mentioned previously, in accordance with part 1 of Art. 10 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," the free economic zone's management bodies are the Ministry of Economic Development of the Republic of Crimea, the Expert Council on the Special Economic Zone of the Republic of Crimea and the Federal City of Sevastopol, and the highest executive bodies of the Republic of Crimea and the Federal City of Sevastopol. Attention is drawn to the fact that only experts from these government bodies are members of the Expert Council, the primary task of which is to coordinate the interaction between authorities, to organize the operation of the free economic zones of the Republic of Crimea and the Federal City of Sevastopol; so called "private sector" representatives – entrepreneurs and business entities, are not provided with the legal right to join them.

At the same time, the participation of the private sector in the activities of the Expert Council would contribute to a more efficient and productive free economic zone of the Republic of Crimea and the Federal City of Sevastopol. According to E. Kombarova, it is necessary to include representatives of "private sector" in the Expert Council on the free economic zone. Such representatives could be, for example, members of the Chamber of Trade and Industry of the Russian Federation and its regions.

This is due to the fact that such changes make it possible take both only public and private interests into account. It should be noted that, for instance, legislation on special economic zones in the Russian Federation provides for the creation of Supervisory Board, whose activities are also aimed at organizing the operation of special economic zones. At the same time, membership of such councils also includes participants (residents) of these zones – legal entities and individual entrepreneurs (part 4 of Art. 7 of the Federal law "On Special Economic Zones in the Russian Federation") and other representatives of private sector. It is considered necessary to add the following content to the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol": The Expert Council includes representatives of the Ministry of Economic Development of the Republic of Crimea, the highest executive bodies of the Republic of Crimea and the Federal City of Sevastopol, participants of the free economic zone, and other sole entrepreneurs and business entities.

³⁰ Nonna Barkhatova, *Russian Small Business, Authorities and the State*, 52(4) *Europe-Asia Studies* 657 (2000).

4.4. Management System of the Free Economic Zone: Lack of Flexibility

As was stated previously, in accordance with the part 1 of Art. 10 of the Federal law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol,” the free economic zone management bodies are the Ministry of Economic Development of the Republic of Crimea, the Expert Council on the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol, and the highest executive bodies of the Republic of Crimea and the Federal City of Sevastopol. According to experts, this structure of management bodies is not effective enough. This opinion is based on the absence of entities which can bridge the gap between government bodies and private sector.

The system of management of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol differs from management of other territories with a special legal regime of entrepreneurial and other activities. In comparison, the management systems of the special economic zone in the Russian Federation, the Free Port of Vladivostok, and territories of advanced economic and social development include management companies in addition to the previously-mentioned government bodies. These companies are business entities. For example, the federal government created a public organization in the form of a joint-stock company which is responsible for establishing and developing their projects in different regions – JSC “Russian special economic zones.” This management company has some key features. It was not initiated to gain profits; instead, it was established to attract investors, prepare the necessary infrastructure for them, and supervise the functionality of this infrastructure and the project in general. Although it is a joint-stock company, 100% of the shares belong to the government. Management companies usually profit from investors’ payments to use the special economic zone infrastructure (e.g., electricity, water, sewage, and recycling). However, they keep all the profits gained from infrastructure rent in the regional budget, and they do not share them with the federal office. Management companies merely monitor regional special economic zones to ensure that they stick to the schedule for establishing and developing the project. They also act as an intermediary between regional special economic zones and the Ministry of Economic Development of the Russian Federation, which monitors the efficiency and development of these projects. In the early stages, regional management companies and SEZs are financed by the state budget, but they are expected to become self-sufficient in the long term.³¹

According to experts, presence of management companies in system of management of the free economic zone will allow to operate these zones more efficiently.³² This fact

³¹ Sosnovskikh 2017.

³² See Глазунова И.В., Масалаб А.Ф. Особенности административно-правового статуса управляющей компании инновационного центра «Сколково» // Вестник Омского университета. Серия «Право».

can be explained by the nature of management companies as joint-stock companies. This fact makes them more mobile, flexible and easy to interact with.³³ In the opinion of A. Belitskaya management companies of special economic zones form the basis of private public partnership and enhance investment activity in its territories.³⁴

4.5. Broad List of Accepted Entrepreneurial Activities in the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol

In addition to the afore-mentioned, the effectiveness of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol is not facilitated by parts 1, 2 of Art. 12 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol." According to this Article, all kinds of entrepreneurial activities can be carried out within the boundaries of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. The exceptions are as follows: activities in the sphere of subsoil use for purposes of location and production of minerals or development of deposits of the continental shelf of the Russian Federation. Therefore, according to this provision, conducting all kinds of entrepreneurial and other activities by participants of the free economic zone would contribute to the achievement of the purpose of the free economic zone's creation.

It is difficult to agree with this provision. The implementation of any type of entrepreneurial activity (apart from the afore-mentioned restricted activities), would not contribute to the achievement of the goal of the free economic zones of the Republic of Crimea and the Federal City of Sevastopol's creating. However, it is important to remember that the participants of the free economic zone are allowed to apply all the benefits of a special legal regime for conducting entrepreneurial and other activities, including low taxes and rental fees. This is why if a participant conducts activity which does not contribute to the goal of the free economic zone's creation, government spending connected with mentioned benefits will not acquit itself.

For these reasons, we consider it necessary to develop a list of priority activities in the free economic zone. It seems that in the first instance this list should include activities contributing to the development of regional tourist and recreational potential, which is preconditioned by geographical and historical cultural factors.

2014. № 3. С. 46–50 [Irina V. Glazunova & Anna F. Masalab, *Unique Features of the Legal Status of the Management Company of the Innovational Centre Skolkovo*, 3 Bulletin of the Omsk University. Legal Series 46 (2014)].

³³ Gromova 2016, at 39.

³⁴ Белицкая А.В. Правовой статус и правовая природа управляющих компаний территорий со специальным режимом осуществления предпринимательской и инвестиционной деятельности // Право и экономика. 2015. № 5. С. 10–15 [Anna V. Belitskaya, *Legal Entity and Legal Nature of the Management Company in the Boundaries of Territories with a Special Legal Regime for Conducting Business Activity*, 5 Law and Economics 10 (2015)].

This is generally correlated with one of the components of the goal of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol creating: the development of tourism and medical treatment resorts (Art. 2 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol").

In comparison, the legislation of the other territories with a special legal regime of entrepreneurial and other activities contains provisions about priority activities. For example, in the special economic zone in the Russian Federation, residents may conduct industrial activity, technical innovational activity, touristic recreational activity, and several types of activity undertaken in the port special economic zone (Art. 10 of the Federal law "On Special Economic Zones in the Russian Federation").

4.6. Difficulties in Determining of the Legal Nature of the Contract on the Condition of Conducting Activity in the Free Economic Zone of the Republic of Crimea and the Federal City of Sevastopol

Many problems are generated by the norms on the contract of conditions of activity in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol. This contract is concluded between potential participants of the free economic zone of the Republic of Crimea and the Federal City of Sevastopol and the authorized state body. According to the contract on conditions of conducting activity in the free economic zone of the Republic of Crimea and the Federal City of Sevastopol, participants of the free economic zone are obliged to conduct entrepreneurial activity and make a certain amount of investments prescribed by the law. The authorized state body, in turn, is obliged to provide for the counterparty (participant of free economic zone) by the conditions set forth by the counterparty. Similar agreements are concluded for carrying out entrepreneurial and other activities in the special economic zone in the Russian Federation, the Free Port of Vladivostok, and the territories of priority socio-economic development by economic entity. This is why the legislation on all territories with special legal regime of entrepreneurial and other activity has the same provisions dedicated to contracts and agreements mentioned.

However, in the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," there is no clear indication of the legal nature of these agreements. A similar situation has developed with the legislation on the other territories with special legal regime of entrepreneurial and other activities; federal acts on these territories also do not define the legal nature of given agreements.

In entrepreneurial law there are a number of approaches to the definition of the legal nature of agreements on conducting entrepreneurial activity (contracts on the conditions of conducting entrepreneurial activity). For instance, some authors

believe these contracts to be public legal matters. Their position is based upon the participation of government body in the contract. This is why the relationship between counterparties is regulated mainly by the norms of public or administrative law.³⁵ Other authors are convinced that the legal nature of these contracts is complex. According to this approach, provisions of contracts on conditions of entrepreneurial activity include both norms of administrative and civil law.³⁶

Lastly, some groups of researchers consider these agreements private or civil legal matters.³⁷ This approach could be explained by the fact that relationship between counterparties of contracts is based on their legal equality. The best interests of counterparties can be taken into account in a civil law contract on the basis of legal equality, autonomy of will, and property independence of its parties – principles on which civil law is based.

There are a number of arguments given in favor of the civil law nature of contracts on business conditions, as well as agreements on the implementation of entrepreneurial activities in special economic zones in the Russian Federation, the Free Port of Vladivostok, and territories of advanced social and economic development in science.

Firstly, each participant enters into a contractual relationship voluntarily. This primarily relates to the private participant (investor) of such contracts. No one is permitted to force potential participants to conclude this agreement. Consequently, the authorized body of state power is not entitled to compel a potential investor to conclude this agreement if the latter is not satisfied with the conditions. Thus, by concluding an agreement on the conditions of activity, potential counterparties jointly agree on its terms and conditions. This, in particular, Art. 13 of the Federal law “On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol” specifies, according to which the participant of the free economic zone states the investment conditions of the declaration (extent and timing of investment and more), on which they agree to conclude a contract. In the event that such conditions are not accepted by the counterparty, the participant of the free economic zone has the right to refuse to enter into this agreement.

³⁵ Серебрякова Е.Е. Технико-внедренческие особые экономические зоны: правовые аспекты создания и функционирования: Дис. ... канд. юрид. наук [Evgeniya E. Serebryakova, *Technical and Development Special Economic Zones: Legal Basis of Creation and Functioning: Thesis for a Candidate Degree in Law Sciences*] 173 (St. Petersburg, 2012).

³⁶ Гасумянова А.В. Правовой режим предпринимательства в особых экономических зонах Российской Федерации [Anna V. Gasumyanova, *Legal Regime of Business Activity in Special Economic Zones in the Russian Federation*] 78 (Moscow: Statut, 2006).

³⁷ See Благов Д.А. Правовое регулирование отношений в сфере осуществления предпринимательской деятельности на территории особых экономических зон Российской Федерации: Дис. ... канд. юрид. наук [Dmitry A. Blagov, *Legal Regulation of Relations in the Sphere of Conducting Business Activity in Special Economic Zones in the Russian Federation: Thesis for a Candidate Degree in Law Sciences*] 10 (Moscow, 2012).

Secondly, each of the parties of the treaty has equal opportunity to change their conditions; according to part 27 of Art. 13 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol," the conditions of the contract can be changed by the agreement of counterparties.

Finally, the contract can be terminated by agreement between the parties or at the request of each party in the court in the event of a material breach of the agreement counterparty (Art. 13 of the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol").

To eliminate possible objections to the legal nature of the contract analyzed, the Federal law "On the Development of the Republic of Crimea and the Federal City of Sevastopol and the Free Economic Zone in the Territories of the Republic of Crimea and the Federal City of Sevastopol" should be supplemented by a norm which points to the civil law character of contracts on operating conditions. It is also necessary to provide the legislation on special economic zones in the Russian Federation, territories of advanced social and economic development, and the Free Port of Vladivostok with the same provision.

Conclusion

It should be noted that the legislation on the Republic of Crimea and the Federal City of Sevastopol is not free from shortcomings. Current legislation must be further improved if we want the free economic zone of the Republic of Crimea and the Federal City of Sevastopol to operate as well as expected. Nevertheless, there are no doubts that the prospects of development of the region of Crimea as a free economic zone make it possible to broaden the horizons for building a new type of innovational economy, attract investments to national economy, and enhance development of given region. The conclusions made in this research paper could be used in the lawmaking and legal practice in the sphere of application of legislation on the free economic zone of the Republic of Crimea and the Federal City of Sevastopol, special economic zones in the Russian Federation, the Free Port of Vladivostok, and territories of advanced social and economic development. Moreover, given results could be used as a foundation for the further research of free and special economic zones and other territories with a special legal regime of entrepreneurial and other activities.

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