

# Was 2017 another difficult year for Kazakhstan?

In this article, SHAIMERDEN CHIKANAYEV outlines some of the key legal developments and challenges faced by the Islamic finance market in Kazakhstan in 2017 and provides an overview of some of the major factors that will shape the Islamic finance industry's growth and trends in Kazakhstan in 2018.



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2017 has been a big year for Kazakhstan: it hosted an international expo in Astana, currently holds a non-permanent seat on the United Nations Security Council and replaced Geneva as host to Syrian peace talks. As far as the overall economy is concerned, Kazakhstan suffers badly from the 2014 price decline in oil and other commodities and a stagnant banking sector. As such, its future economic growth largely depends on attracting foreign direct investment (FDI) flow into Kazakhstan for the development of infrastructure and regional trade. Kazakhstan aims to become the largest business and transit hub in the Central Asia region, bridging Europe and Asia.

To meet this goal, the legal and regulatory framework of Kazakhstan has undergone a series of reforms in 2017, in the hope of moving away from the oil and gas industry as its main source of income that ultimately shall help to attract new Islamic finance institutions and give Kazakhstan a unique competitive advantage in attracting Islamic finance investments and help the country achieve its goal of becoming a leading financial center for the region.

## Subsoil Code

On the 27<sup>th</sup> December 2017, Kazakhstan adopted a new code titled 'On Subsoil and Subsoil Use' (the Subsoil Code), which introduced a number of major developments, including a limitation on the application of the state's so-called preemptive purchase right to large and important deposits that are significant to the state's strategic interests.

The rationale behind the adoption of the Subsoil Code is the intent to, among other things, simplify administrative



procedures and increase the attractiveness of this area for investors.

## Tax Code

On the 25<sup>th</sup> December 2017, Kazakhstan also adopted a new Tax Code and certain tax-related amendments to a number of laws that introduced a number of positive changes for, among others, subsoil users and a simplified tax regime for small and medium-sized businesses.

New principles in the field of tax administration have been introduced in an effort to establish clear rules for interaction between state revenue bodies and taxpayers (such as the principle of good faith, that all the ambiguities and inaccuracies of the Tax Code will be interpreted in favor of entrepreneurs).

## Renewable energy

Kazakhstan has switched from the fixed feed-in tariff support system to the mechanism of auctions to develop renewable sources of energy from the 1st January 2018. The auction system shall make the process of granting renewable energy projects open and transparent and will give impetus to the implementation of the most cost-effective projects. The first auction is envisaged to take place in May 2018.

## Public-private partnership

Kazakhstan introduced certain changes in legislation on the 30<sup>th</sup> November

2017 in order to introduce, among other changes, a simplified mechanism of granting a right to implement infrastructure and other projects as a public-private partnership (PPP) and a fast-track procedure for the execution of PPP agreements that can be used in certain, specified by the law, cases.

## China's Belt and Road initiative in Kazakhstan - how Islamic finance can play a part

Kazakhstan needs to think of alternatives for growth by diversifying and innovating itself instead of relying solely on natural resources. China's Belt and Road initiative (BRI) provides a unique opportunity for Kazakhstan to attract Chinese money and technologies, become one of the largest transit hubs in Eurasia and to venture into exports of organic foods and petrochemicals to China.

About 98% of Chinese FDI in Kazakhstan so far is in the energy sector, including trunk pipelines. The possibilities for Chinese FDI in the non-energy sector of Kazakhstan are wide, but yet remain vague and long term, like the BRI itself.

At the beginning of 2018, only a few deals can be mentioned, in particular the acquisition by China's COSCO Shipping and Lianyungang Port of a 49% cut of Kazakhstan's epic Khorgos Gateway dry port on the Kazakh/China border in 2017.

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The BRI, if fully realized, is likely to cost more than US\$1 trillion over the next decade. China is unlikely to be able to finance the initiative on its own and, therefore, Islamic finance, which is very suitable for infrastructure financing, can be used to finance some of the BRI-related projects in Kazakhstan.

## A new Islamic finance hub in Central Asia

A massive privatization program shall finally properly kick off in 2018 in Kazakhstan, as the nation aims to reduce the presence of the state in the economy to 15% by 2021.

Multiple IPOs, in particular of national companies Kazakhtelekom, Kazatomprom and AirAstana in 2018, are scheduled for the next few years on a stock exchange of the Astana International Financial Center (AIFC), a new financial center to be based on English law and that would have a number of unprecedented privileges for participants, such as exemption from taxes for 50 years, free movement of capital, modern infrastructure, free office lease for two years and a special visa regime for foreigners.

The AIFC's court, which will be headed by the former lord chief justice Lord Woolf, will consider disputes on the basis of English procedural law. The judgments issued by this court will be directly enforceable in Kazakhstan.

The AIFC is scheduled to start operating from July 2018. Disputes emerging from the BRI projects are expected to boost the third-party dispute resolution business in not only obvious places such as Singapore and Hong Kong, but also perhaps even in the AIFC in Kazakhstan.

One of the core pillars of the AIFC is Islamic finance, as it aims to become an Islamic finance hub not only for Kazakhstan, but for the whole of Central Asia, the Eurasian Economic Union, the Caucasus, West China, Mongolia and Eastern Europe.

Kazakhstan, therefore, plans to attract, through the AIFC, Islamic financing from abroad and locally for the purposes of implementing big infrastructure and PPP projects, including BRI-related projects in Kazakhstan. ☺



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