



**SAYAT ZHOLSHY  
& PARTNERS**  
Lawyers and attorneys at law



**OVER  
20 YEARS  
OF SUCCESSFUL  
PRACTICE**

## **INFRASTRUCTURE PROJECTS. PUBLIC-PRIVATE PARTNERSHIP (PPP)**

In the context of the new economic policy of Kazakhstan, Public-Private Partnership (PPP) arrangements are vital to the development of infrastructure in the country.

We successfully supported numerous infrastructure projects across the Republic of Kazakhstan



- *THE BEST ATTORNEYS' OFFICE by the Kazakhstan Union of Attorneys*

## **INFRASTRUCTURE PROJECTS. PUBLIC-PRIVATE PARTNERSHIP (PPP)**

One of the top priorities of the Kazakhstan-2050 Strategy is active engagement of the business community in cooperation with the government aimed at finding the best solutions to social and economic problems on the principles of a public-private partnership and implementing the “strong business, strong government” idea.

Public-Private Partnership is a cooperative arrangement between the public and private sectors, typically of a mid- or long-term nature, used to finance, build and operate infrastructure and socially important projects on the principles of balanced distribution of risks, benefits, costs, rights and obligations.

The Kazakhstan PPP regulatory framework development was triggered by the adoption of the Kazakhstan Law *On Concessions* (7 July 2006) that lays down a general regulatory framework for investing financial and other resources in concession-based infrastructure projects.

On 31 October 2015, Kazakhstan adopted the Law *On Public-Private Partnership* meant to enhance the role of private sector in the launching and development of PPP projects.

PPP creates many advantages for both the public and the private sectors. The Government gets a chance to address public problems by reducing the burden on the national budget and using the available experience and technologies of the private sector, while business is offered the potential to invest in new infrastructure projects and additional sources of revenue.

The Kazakhstan PPP is promoted and developed by the Kazakhstan Center for Public-Private Partnership established in pursuance of Kazakhstan Government Resolution *On the Establishment of a Special-purpose Organisation to Deal with Concession Issues* No. 693 of 17 July 2008. Furthermore, at a sub-national level, Kazakhstan sets up regional PPP centres which are directly involved in projects implementation and render the necessary assistance to local executive authorities.

Local executive authorities, in their turn, have begun displaying activity in the implementation and application of PPP mechanisms. For example, in 2012, only 6 regions of Kazakhstan developed PPP projects and, today, nearly all regions started to attract investments in socially relevant projects, including the construction, upgrade and reconstruction of hospitals, kindergartens, schools, outpatient clinics, roads and utility facilities.

Despite a number of deterrents to the development of PPP at the local level, lately, this form of interaction between the public and private sectors has been gaining popularity. Sayat Zholshy & Partners keeps abreast of the times and has accumulated

enormous experience in supporting the projects that use PPP mechanisms. For example, we advised and supported a major Kazakhstan investment company in connection with the development of fee-based municipal parking facilities in Almaty, including the construction and operation of multilevel car-parks.

We also rendered legal advice and support in connection with the development of a municipal solid waste recycling system in Almaty allowing for separate collection, transportation, processing (sorting), utilisation and disposal of solid municipal waste, including the construction of a single waste sorting plant in Almaty.

Our Firm also provided assistance in the implementation of other PPP projects in various sectors of Kazakhstan economy.

## OUR SERVICES

- Conducting legal audit at all stages of a PPP project implementation, commencing with the project development/implementation and ending with the PPP contract completion/performance/termination
- Drafting legal documentation, including, but not limited to, concession agreements, project contracts, agreements for trust management of public assets, agreements for hiring of public assets, leasing agreements, services contracts, etc.
- Advising potential private partners on (i) project risks and appropriate methods for allocation thereof, (ii) methods of participation in a project of a public partner and a potential private partner, and (iii) compliance of tender documentation with Kazakhstan laws
- Obtaining licenses and other regulatory permits and authorisations required for the implementation of a PPP project
- Representing and supporting Clients in their negotiations with government authorities
- Advising Clients on various legal issues from the perspective of Kazakhstan law, including, but not limited to, antitrust, tax, corporate, labour, currency and other issues arising in the course of a PPP/infrastructure project implementation
- Advising Clients on alternative modes of interaction with the Government, apart from public-private partnership
- Advising Clients at the stage of a PPP project planning with regard to a mode of such

project implementation, a type of PPP contract, presumable financing out of public funds, government support measures, currency and other risks, etc.

## EXPERIENCE

In the light of active promotion of a PPP approach in Kazakhstan, the number of our clients interested in this form of cooperation between the public and private sectors is steadily growing. The most popular services include legal advice, project support, legal due diligence, etc.

Our vast experience in this area includes numerous successfully completed projects, in particular:

- Rendering legal advice and support in connection with the development of fee-based municipal parking facilities in Almaty, including the construction and operation of multilevel car-parks. This project implied the legal review of a draft PPP contract, legal advice on project risks and appropriate risk allocation methods, and support through negotiations with representatives of the public partner
- Rendering legal advice and support in connection with the development of a municipal solid waste recycling system in Almaty allowing for separate collection, transportation, processing (sorting), utilisation and disposal of solid municipal waste, including the construction of a single waste sorting plant in Almaty. Under the scope of this Project we drafted a PPP contract, advised on antitrust and environment law issues, and drafted amendments to regulations of local executive and representative authorities
- issuing a legal opinion for a major Kazakhstan company on the assessment of currency and other risks associated with the project involvement, the choice of appropriate risk allocation methods, government support and other related issues

## TEAM



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