



***INVEST IN***

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**METHODS FOR CRITERIAL EVALUATION OF THE  
INVESTMENT LEGISLATIVE FRAMEWORK  
AT THE REGIONAL LEVEL**

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***AGENCY FOR DEVELOPMENT  
AND INVESTMENT PROMOTION***

***АРПИИ  
ADIP***

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## 1. List and Description of the Criteria <sup>1</sup>

- 1.1. Coherence of the regulations with the main principles of active Russian legislation implying supreme power of Constitution, federalism, territorial division, equal rights, etc. (**Coherence criterion**).
- 1.2. Integrity and systematic character of the regulations. This criterion shows if all legal issues related to the investment activity are regulated at the local level. (**Integrity Criterion**)
- 1.3. Availability and publicity. This criterion describes the possibility to get free access to the information on regulations, number of information sources, etc. (**Availability Criterion**).
- 1.4. Correspondence with the mission and objectives of the regulations. Considering the specific character of this research report, the mission of the legal framework shall be to improve investment climate and provide business-enabling environment (**Correspondence Criterion**).
- 1.5. Enforcement. Existence within the legislative framework of the procedures and methods relevant to its application and enforcement. (**Enforcement Criterion**).
- 1.6. Frequency. This criterion characterizes how frequently the existing regulations are used in practice. (**Frequency Criterion**)
- 1.7. Efficiency of the tax holidays. Quantity and quality of the incentives offered to the investors and duration period. (**Efficiency Criterion**).
- 1.8. Existence of guarantees of the regulations enforcement. Existence in legislative system of the guarantees for the regulations' enforcement and adaptation (**Guarantees Criterion**).
- 1.9. Liability for the violations. Existence in legislative system of the penalties for violating legislative acts. (**Liability Criterion**).
- 1.10. Duration. Time-period stipulated for the validity of regulation. (**Duration Criterion**).

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<sup>1</sup> The criteria are not listed in accordance with their importance or rank. The number of the criterion in the list does not show the degree of importance.

## 2. Scale

### 2.1. Coherence Criterion

<b>Content of the criteria</b>	Regulations do not exist	There are separate legal acts which do not comply with the main principles of acting legislation	Majority of the regulations in the existing legal system do not comply with the principles of acting legislation	50 % of the major regulations in the existing legal system do not comply with the principles of acting legislation	Minor share of the regulations in the existing legal system does not comply with the principles of acting legislation	Minor share of the regulations in the existing legal system does not comply with the principles of acting legislation and the discrepancy is explained by the improvement of the investment environment	System of the regulation is in coherence with the main principles of the legislation			
<b>Grade (Rating)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>

### 2.2. Integrity Criterion

<b>Content of the criteria</b>	Regulations do not exist	There are separate legal acts related to the investment activity	Existing legal acts regulate principal but non-conforming investment issues	Existing legal acts regulate principal investment issues for the region while omitting those on controversially issues	Consistent investment regulations on the principal issues while omitting those of minor importance	Existing legislative system is consistent for the investment process in the region except the issues where the regulations or laws at the moment undergo certain changes	Existing legislative system is consistent for the investment process within local jurisdiction			
<b>Grade (Rating)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>

### 2.3. Availability Criterion

<b>Content of the criteria</b>	Regulations do not exist	Existing regulations have never been published	Some of the regulations have been published once by the local press and have never been given to any other mass media institution	Existing regulations, amendments and changes are regularly published by the local press	Existing regulations are regularly published by the local mass media when issued and by other special editions available to the citizens	Existing regulations are regularly published by the local mass media and special editions, available from the Government offices on request and disseminated by the local provider through electronic legal information systems	Existing regulations are regularly published by the local mass media and special editions, available from the Government offices on request and disseminated by the local provider through electronic legal information systems and available via Internet in foreign languages			
<b>Grade (Rating)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>

## 2.4. Correspondence Criterion

Content of the criteria	Regulations do not exist	There are separate acts which do not correspond with their objectives	In the existing system the majority of the regulations does not correspond to the objectives and does not solve the necessary tasks		Existing system of the regulations corresponds to its mission but does not accomplish its task		Existing system of regulations corresponds to its mission and accomplish majority of its tasks		Existing system of regulations corresponds to its mission and completely accomplish its tasks	
Grade (Rating)	1	2	3	4	5	6	7	8	9	10

## 2.5. Enforcement Criterion

Content of the criteria	Regulations do not exist	There are separate legal acts without any regulations or explanations on its enforcement	There is a great number of legal acts, which should be supplemented by others with the application requirements and which have not been passed yet		In the existing system the application of the regulation is explained by the legal act itself		In the existing system the application of the regulation is explained by the legal act itself, besides there are separate documents explaining the main clauses		In the existing system the application of the regulation is explained by the legal act itself and through additional regulations on the procedure, some of the regulations are direct		In the existing system the application of the laws is explained through special regulations on the application procedure, majority of the legislative acts is direct
Grade (Rating)	1	2	3	4	5	6	7	8	9	10	

## 2.6. Frequency criterion

Content of the criteria	Regulations do not exist	Existing regulations have never been applied	There are just a few examples when the regulations have been applied and all of those examples have negative results		Existing regulations are applied seldom and their application requires additional agreements (for instance with the Government)		Regulations are applied on request at random		Existing regulations are systematically applied to all applicants		Existing regulations are systematically applied and do not require additional requests
Grade (Rating)	1	2	3	4	5	6	7	8	9	10	

## 2.7. Efficiency Criterion

Content of the criteria	Regulations do not exist	Existing regulations do not provide the investors with the tax holidays	Existing regulations stipulate minor tax holidays for investors for a time-period less than a year	Existing regulations stipulate 50% of possible tax holidays for the investors for a time-period less than three years but not exceeding the pay-back period	Existing regulations stipulate 75% of possible tax holidays for the investors for the pay-back period but less than five years	Existing regulations stipulate 100% of possible tax holidays for investors for the whole project pay-back period	Existing regulations stipulate 100% of possible tax holidays for investors for the whole project pay-back period and after, additionally it contains special compensation			
Grade (Rating)	1	2	3	4	5	6	7	8	9	10

## 2.8. Guarantees Criterion

Content of the criteria	Regulations do not exist	Existing regulations do not provide any additional guarantees to those provided by the Federal government	Existing regulations declare guarantees for its enforcement, but those guarantees can not be applied in practice	Existing regulations provide guarantees of the enforcement of certain legal acts	Existing regulations system provides guarantees of the enforcement of certain acts describing its mechanisms	Existing regulations system provides guarantees of the enforcement of major acts describing its mechanisms	Existing regulations system provides guarantees of its enforcement describing its mechanisms			
Grade (Rating)	1	2	3	4	5	6	7	8	9	10

## 2.9. Liability criterion

Content of the criteria	Regulations do not exist	Existing acts do not stipulate the liability for violating the laws except for the Federal ones.	Existing acts declare the liability for its violation which can't be applied in practice	Existing legal system stipulates the liability for serious violations of certain acts.	Existing legal system stipulates the liability for violations of the majority of acts which are practically applied	Existing legal system stipulates the liability for violations of the acts describing the mechanisms of practical application of such liabilities				
Grade (Rating)	1	2	3	4	5	6	7	8	9	10

## 2.10. Duration criterion

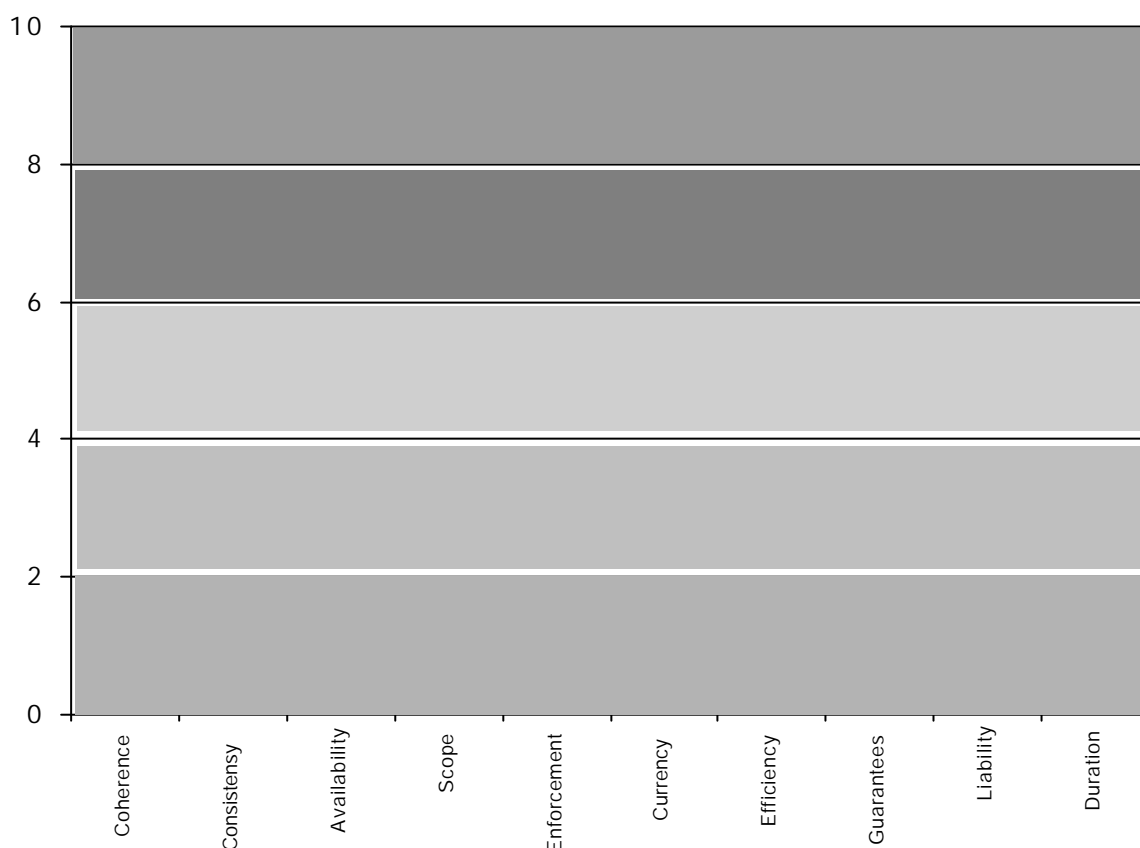
Condition	Regulations do not exist	Regulations exist but have not come into effect yet.	Regulations exist for less than 1 year	Regulations exist for less than 2 year	Regulations exist for less than 3 year	Regulations exist for less than 4 years	Regulations exists for more than 4 years			
Grade (Rating)	1	2	3	4	5	6	7	8	9	10

### 3. Expert System of Evaluation

Expert analysis according to the mentioned above criteria is done as follows: experts (at least two) rate the legislative system for every criterion according to 10-grade scale. The received grades are represented by the diagram on the following coordinate plan:

*OX* - criteria;

*OY* - grades.



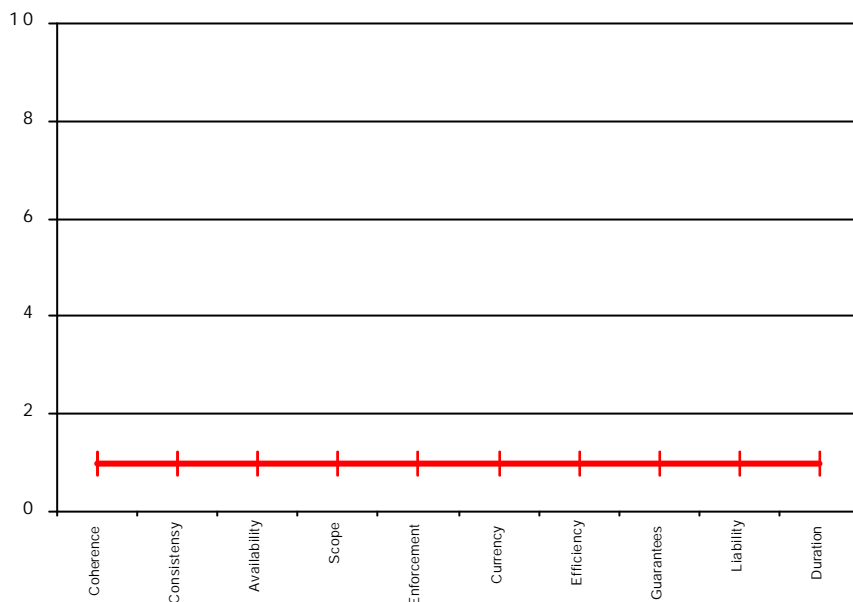
The nodal points of the diagram are located in one of the five zones (the highest interval belongs to the lower zone)

Zone number	1	2	3	4	5
Characteristics	Investments are impossible	Highly unfavorable investment environment	Unfavorable investment environment	Rather favorable investment environment with possibility for further improvement	Favorable investment environment
Range	0-2	2-4	4-6	6-8	8-10
Graphic					

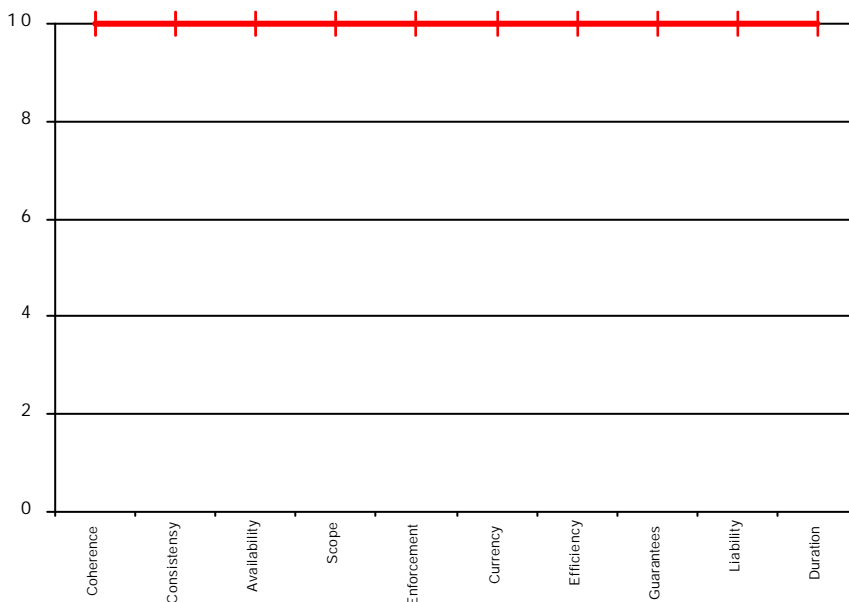
In this regard the legislative framework rated (1,1,1,1,1,1,1,1,1,1) simply does not exist and the legal system with grades (10,10,10,10,10,10,10,10,10,10) is perfect and does not require further improvement. Of course, those two cases are ideal and do not exist in reality.

For more objective characteristics the general grade for every criterion is calculated based on the expert evaluations. **NOTE!** Only independent and unbiased specialists, who are not personally interested in the results, could be invited as experts, for a single preconceived grade influences the general grade. This factor could be eliminated increasing the number of experts.

**Diagram 1. Legal Framework does not Exist.**



**Diagram 2. Legal Framework is Perfect.**



#### 4. Pros and Cons of Criteria Systems.



One of the strong points of this system is the use of visual methods. Diagram shows how well the legislative system is developed and organized. Besides, the diagram obviously shows areas, which require special attention.

The system is characterized by the following drawbacks:

- à) Rather conditional character of every scale which could be eliminated through introduction of additional criteria and specifying every criterion to maximum possible extent
- b) Subjectivity of the expert evaluations. Even independent experts when offered to use a *new evaluation system* for could be unsatisfied with it and be rather preconceived.