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CENTRAL ASIA INVEST
BOOSTING SMALL BUSINESS COMPETITIVENESS

OECD
BETTER POLICIES FOR BETTER LIVES

Improving the Legal Environment for Business in Central Asia

Progress report

Discussion of findings for Central Asia and Uzbekistan

Wednesday, 6 March 2024
Courtyard by Marriott Hotel, Tashkent

OECD Eurasia Competitiveness Programme

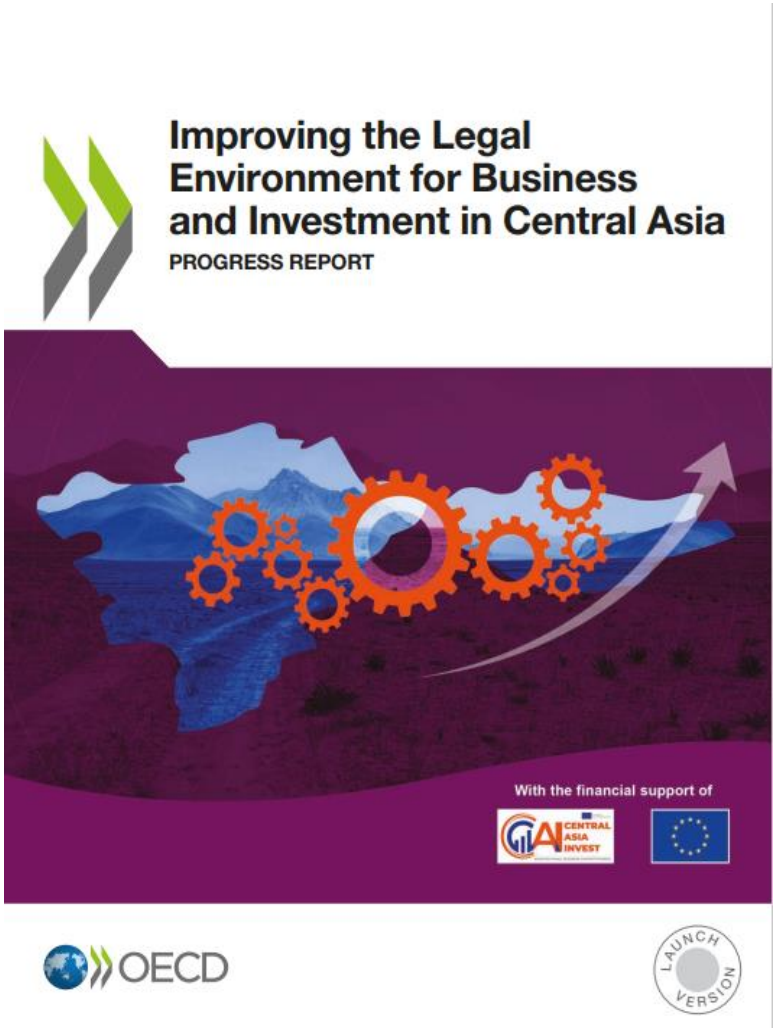
Agenda

- **Regional assessment**

- **Overview of 2020 recommendations for Uzbekistan**

- **Main reform trends and developments since 2020 in Uzbekistan**

The OECD assessed progress made in improving the legal environment for business in Central Asia since 2019-2020



The legal environment for business was assessed along 10 dimensions considered crucial for a healthy business climate.

- Legal and regulatory framework for investment
- Tax administration
- Land legislation
- Registration procedures
- Contract enforcement and dispute settlement
- Operational environment for business
- Trade facilitation
- Expropriation regimes
- Exit mechanisms
- Public-private dialogue

Regional assessment

Despite economic headwinds, the region has made progress in easing the operational environment for firms

Achieved results

- **Streamlined** licence and permit procedures
- Significant **digitalisation** of public services
- Reinforced regional **integration** with the improvement of customs and border procedures

Challenges ahead

- Ensure **predictability** and **consistency** in the application of legislation
- Foster **competition** and SOE reforms
- Extend use of **monitoring and evaluation** and **regulatory impact assessment** for evidence-informed policy-making

Country assessment (1/2)

	Achieved results	Way forward
Kazakhstan 	• More transparent regulatory framework • **Strengthened judicial capacity** and independence • Significant **digitalisation of government's services** and procedures	➢ Ensure the stability of **business regulations** ➢ Further increase the **transparency of the judicial system** ➢ Ease **restrictions on services** trade
Kyrgyzstan 	• **Reduced administrative burden** through increased digitalisation • **Leveled playing field** thanks to fiscal policy reforms	➢ **Avoid a hasty implementation** of reforms, particularly in relation to taxes ➢ Increase **private sector's involvement** in policy-making ➢ Increase **trust in the judicial system**

Country assessment (2/2)

	Achieved results	Way forward
Tajikistan 	• **Improved access to legal information** and procedures • **Improved judicial transparency** and pre-trial dispute resolution tools • **Lowered burden** on taxpayers	➢ **Avoid a hasty implementation** of reforms, particularly concerning taxes ➢ Increase **private sector's involvement** in policy-making ➢ Increase **trust in the judicial system**
Turkmenistan 	• **Improved access to legal resources online** and through the media • **Eased administrative burden** on firms through the centralisation of services under a one-stop-shop (Tax Committee)	➢ Consider the **creation of an investment promotion agency (IPA)** ➢ **Digitalise** public services ➢ Expand the **array of financial products** available for SMEs

Agenda

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Overview of 2020 recommendations

In 2019 and 2020, the OECD identified a need for improved implementation of reforms in three priority areas

	Challenges	2020 Recommendations
1	**Legal framework for investment** Improve implementation of investment legislation	➔ Ensure proper implementation of the new investment law and **remove sectoral restrictions** ➔ Ensure **consistent enforcement of ICSID judgements** ➔ Continue to **reduce the role of the state** in sectors where its presence has an **indirect discriminatory effect**
2	**Operational environment for SMEs** Streamline business regulation	➔ Streamline and **consolidate legislation and licenses** for firms and entrepreneurs ➔ Accelerate **digitalisation** of procedures for all firms ➔ Improve **dispute resolution** including in local courts and through ADR
3	**Taxation** Improve tax administration	➔ Ensure **predictability of changes to tax requirements**, and **improve tax administration** for SMEs ➔ Complete **full digitalisation of tax procedures** ➔ **Streamline the tax code**, and ensure its **interpretation**

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Implementation of investment legislation
Our understanding of evolutions

Significant reforms to increase investor protection rights were undertaken	But a lack of transparency remains
✓ A **review of the Law on Investment is underway,** improving the quality and clarity of the regulatory framework by bringing it closer to international standards	X Insufficient **transparency of the public procurement system** and the **privatisation process**
✓ Investment disputes are expected to be handled by an independent **Tashkent International Commercial Court** after its establishment	X The *de jure* equal treatment in **incentive allocation is *de facto* selective**
✓ Uzbekistan is becoming more **integrated into the investment and trade community,** after joining the GSP+ and creating the Foreign Investors' Council	X **Privatisation** seems to be conducted **without a clear strategy**
	X **Sectoral restrictions for foreign investment** remain *de facto,* such as in agriculture, transport, media and banking
	X **Alternative dispute resolution mechanisms remain imperfect**

Implementation of investment legislation
Recommendations

Provide additional guarantees on the impartial treatment of investment projects

→ **Level the playing field among firms**

- Conduct an **impact and cost-benefit analysis of the incentive regime**
- Ground the granting of preferences on **sound economic arguments**, avoiding conducting individual negotiations, which mainly benefit large foreign investors
- Publish a **list of beneficiaries** of the exemptions **and of the required criteria**

→ **Strengthen dispute resolution mechanisms**

- Conduct **trainings in courts** on the government's commitments with regards to international conventions
- Spell out a clear **investor grievance mechanism**
- Advance towards an **independent judiciary**

Streamline the investment framework

→ **Some statutory restrictions could be reviewed**

- **Explicitly state in one document** which sectors are subject to FDI restrictions
- **Evaluate the consequences** of the restrictions on downstream industries and consumers
- Prevent a mere transformation of **the nature of monopolies** after privatisation

→ Review the **FDI restrictions in the banking sector**, by involving foreign investors in SOB privatisation

→ **Allow foreign companies and banks to set up a branch** and operate in Uzbekistan

Legislative consolidation for businesses
Our understanding of evolutions

The streamlining of procedures and legislation has made significant progress

- ✓ More than half of government services have been **digitalised on my.gov.uz**
- ✓ **License categories have been streamlined** with some of them removed and some getting a reduced price
- ✓ **The Ministry of Justice has drafted an Entrepreneurship Code**, currently awaiting adoption by the Parliament
  - To define **business entities by categories**
  - To **cut by half** the number of **business inspections**
  - To **remove contradictions** and consolidate existing legislation
- ✓ Access to legislation and free legal advice has improved online

Yet the pace of reforms creates implementation challenges

- X Implementation issues remain, because of
  - **hasty implementation** skipping grace periods
  - and creating **opacity with** the passing of **by-laws**

Competition remains a long-standing issue

- X **Lack of institutional capacity** to foster competition
- X **Preferential treatment granted to SOEs**, which tend to play a regulator role in their own sectors
- X The *de jure* strong competition law regime is **not applied *de facto***

Legislative consolidation for businesses
Recommendations

Major regulatory changes should involve a formal public-private consultation

- → **Allow SMEs to comment and raise concerns** regarding changes that apply to them
- → Avoid urgent procedures bypassing the consultations
- → Monitor and evaluate the consultations to **analyse the degree of stakeholder's involvement**

Pursue reforms to increase competition

- → Provide **more operational independence** to the Consumer Protection and Competition Promotion Committee to allow for more effective enforcement
- → Pursue the splitting of operation, policy and regulatory responsibilities within SOEs

Pursue legislative simplification involving RIA

- → Conduct *ex ante* **mandatory regulatory impact assessments (RIA)**
  - On new regulations with a focus on expected impact on SMEs
  - By a **specialised government body** tasked with reviewing, monitoring and integrating the outcomes to the policy cycle
  - **During the conceptualisation stage** to help in preparing the draft

Legislative consolidation for businesses

Case study 1: the SME test in RIA (1/2)

The UK's Small and Micro Business Assessment (SaMBA)



Goal

- Help understand the **impact of a proposal on SMEs** and consider whether the proposal will affect SMEs in a different way to medium and large businesses.

Principle

- The SaMBA is part of a RIA and is **mandatory for larger domestic regulatory proposals** which have an estimated current equivalent annual net direct cost to business of ±£5m.
- The **default option is to exempt small and micro-businesses** from the requirements of the new regulatory measures.

Proportionality

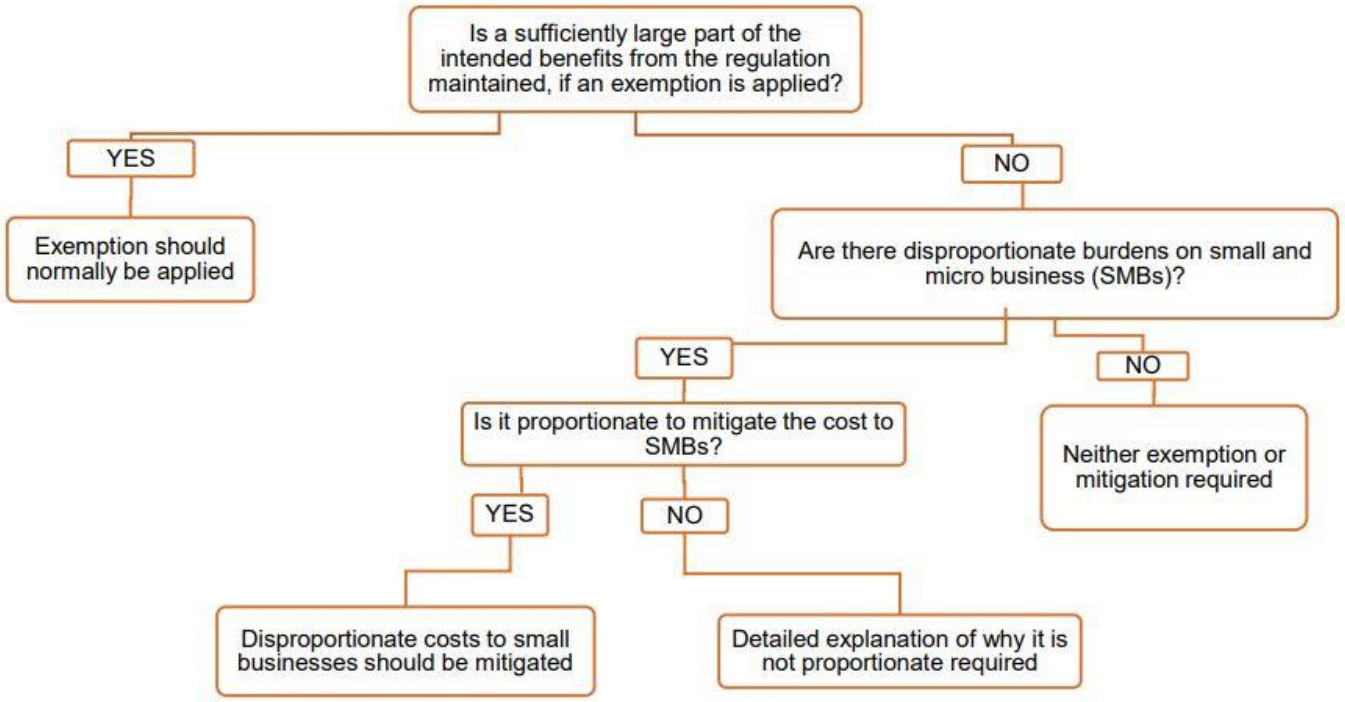
- The **analysis for the assessment should be proportionate** to the scale of the impact of the measure: the level of evidence and analysis should be defined in accordance with the expected impact.

Source: RPC Small and Micro Business Assessment (SaMBA) guidance

Legislative consolidation for businesses

Case study 1: the SME test in RIA (2/2)

Figure 1: Flow chart of key stages in a SaMBA



The policy costs of exempting SMEs and how much these exemptions can compromise policy objectives should be evaluated.

Source: RPC Small and Micro Business Assessment (SaMBA) guidance

Tax administration
Our understanding of evolutions

Fiscal policy developments have reduced the tax and administrative burden on firms

- ✓ The overhaul of the fiscal policy has led to a **decrease of the tax and administrative burden**
- ✓ The new version of the Tax Code **modernised the definition of the taxable base**
- ✓ **Criminal tax audits** are now very strictly regulated
- ✓ The **accountability of the tax authorities was also strengthened**
  - Interest is paid to the taxpayer by the tax authority for each day of overdue tax refund
  - Tax exemptions may not be of an individual nature
- ✓ **Information on tax benefits** is more accessible
- ✓ Significant investments were made in **digitalising tax services and establishing an online cashback system**

However, tax administration remains the most contentious issue mentioned by firms

- X **VAT refunds remain an issue for firms**
  - Firms have complained about the **added complexity of new tax registration procedures**
  - **VAT refunds** are often **delayed**
  - **Digital instruments are introduced hastily** and are therefore not always ready on time
- X **A level-playing field is not always ensured**, as foreign investors often benefit from **tax holidays** on a case-by-case basis
- X **Distrust towards tax authorities** challenges voluntary tax compliance

Tax administration
Recommendations

Legislation changes need to be predictable

- → Base new legislation on prior **"town hall" consultations** and responses to published **consultative documents**
- → **Limit references to norms and by-laws** to avoid contradictions and have a **consistent** legal framework

Improve dialogue with and among the private sector

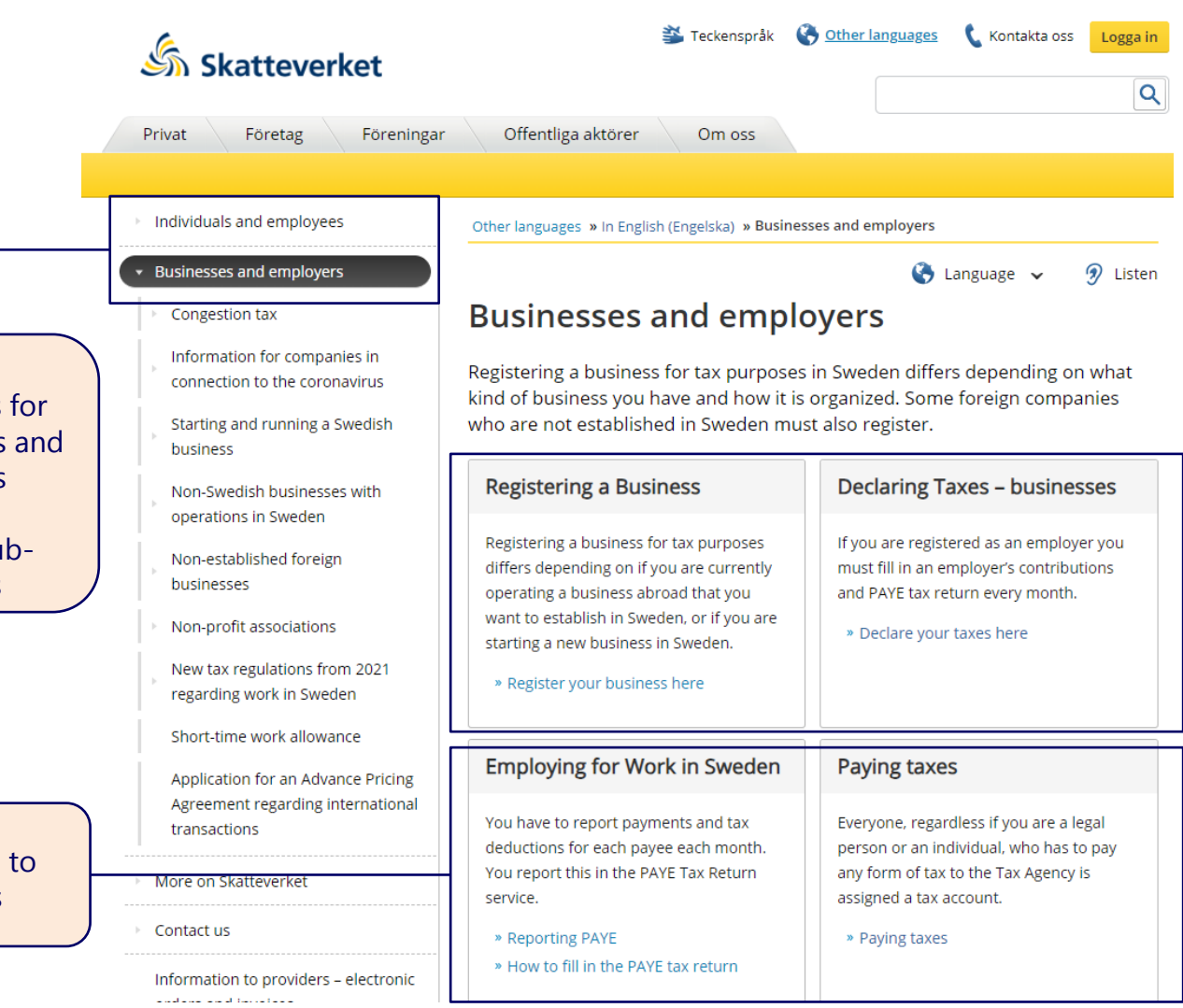
- → **Pursue transparency efforts** such as publishing more exhaustive data on large taxpayer contribution
- → **Reformulate tax authorities' KPIs**, currently based on tax amounts collected, to help define a more collaborative relationship between the latter and the private sector;

Improve engagement with businesses

- → **Encourage formal activity** rather than discourage informal activity to raise tax compliance
- → **Conduct targeted education campaigns on social media** to raise awareness about procedures and deadlines
- → Make **user guides** available on the authority's website
- → **Organise workshops for taxpayers** to (re-)establish their trust towards the tax authority

Tax administration

Case study 2: Engagement with businesses (1/2)



Dedicated categories for individuals and businesses alike with tailored sub-categories

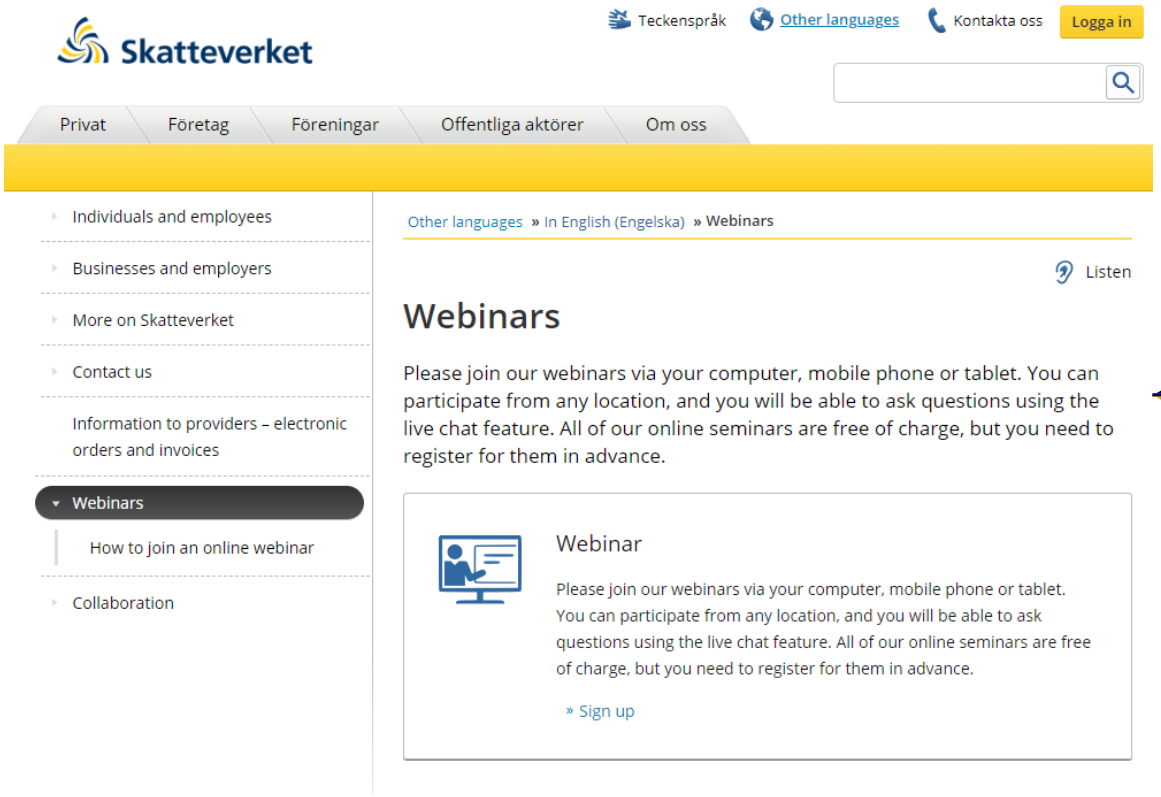
Easy access to the different forms

Easy access to user guides

Source: [Businesses and employers | Skatteverket]

Tax administration

Case study 2: Engagement with businesses (2/2)



- Free
- Conducted every day
- Easily accessible
- Covering different topics
- In Swedish and English

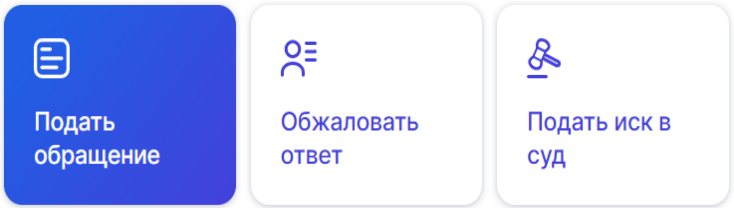
Source: [Webinars | Skatteverket]

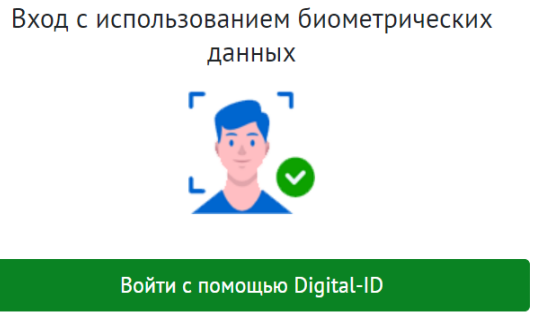
Tax administration

Case study 3: Engagement with businesses (1/2)

e-Otinish







The platform offers **online** the possibility to:

- File an appeal
- Contest an administrative decision
- File a lawsuit

Different topics are covered, including **tax and land issues**

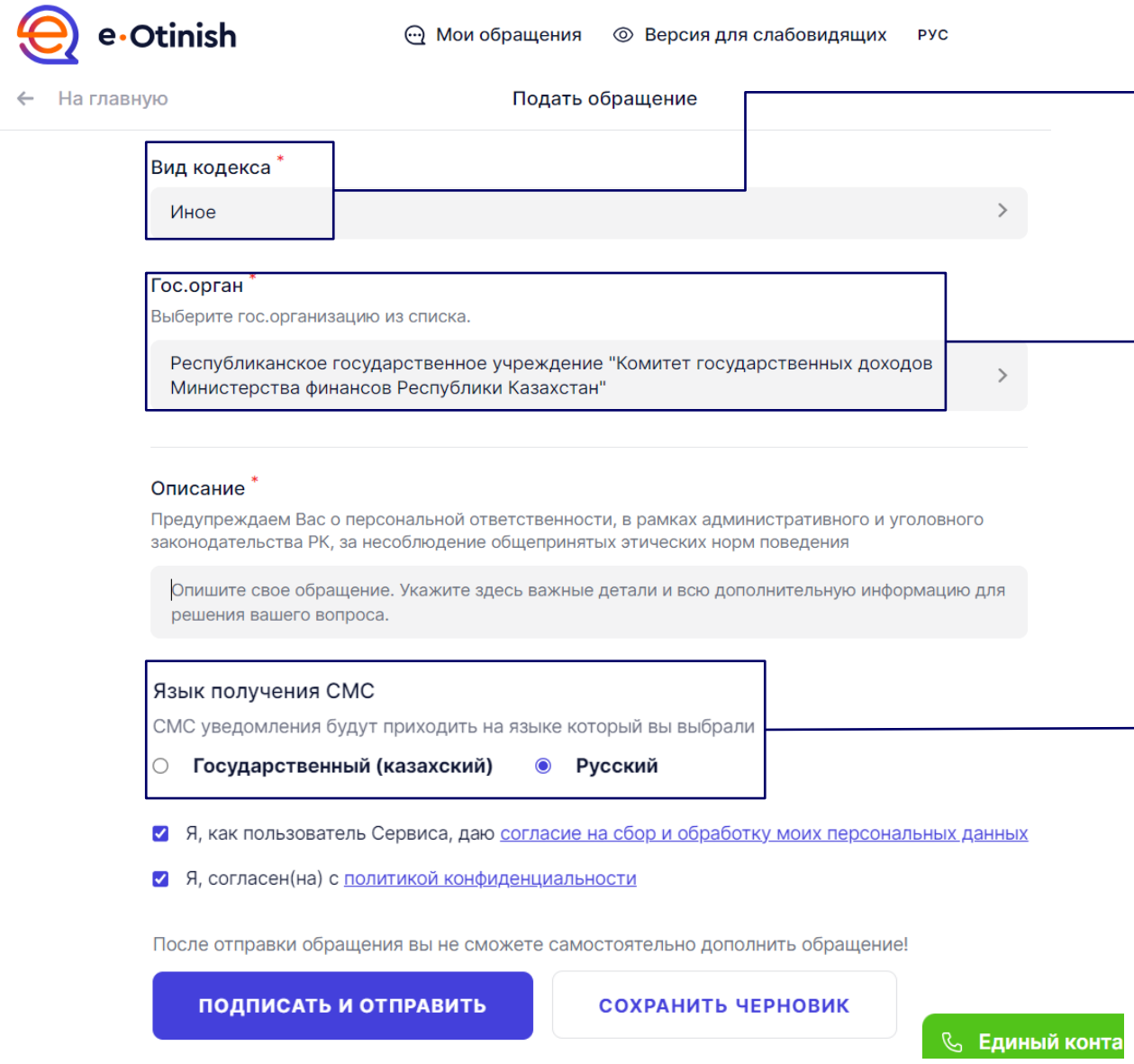
Users can connect with:

- their credentials
- digital signature
- biometrics or
- the QR-code in their mobile e-government app

Source: [Мемлекеттік органдарға ресми өтініш беріңіз | eOtinish]

Tax administration

Case study 3: Engagement with businesses (2/2)



Selection of the **type of appeal** facilitated by accompanying **descriptions**

Possibility to direct the request to a specific administration

Possibility of choosing the contact language

Source: Мемлекеттік органдарға ресми өтініш беріңіз | eOtinish

Summary of updated recommendations

	Implementation of investment legislation	Legislative consolidation for businesses	Tax administration
2020 recommendations	*Ensure proper implementation of the new investment law and remove sectoral restrictions for foreign investors*	*Streamline and consolidate business-related legislation and licenses for domestic firms and entrepreneurs*	*Ensure changes to tax requirements are predictable, and improve tax administration for small firms*
2023 updated recommendations	Provide additional guarantees on the impartial treatment of investment projects	Major regulatory changes should involve a formal public-private consultation	Legislation changes need to be predicable
	Strengthen dispute resolution mechanisms	Pursue reforms to increase competition	Improve the dialogue with and among the private sector
	Streamline the investment framework	Pursue legislative simplification with RIA	Improve engagement with businesses

Thank you!

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