A Stitch in Time Saves Nine

The Foreign Investment Ombudsman promptly tackled the grievance of a foreign-invested company in Korea

Foreign-invested companies in Korea have encountered a variety of operation-related difficulties. While it would be ideal to prevent grievances, swift action must be taken if they occur, to keep them from snowballing. As they say, it’s best to repair a dam when the job can be done with just a hoe.

In April, the president of a major foreign industrial company in Korea (“Investor”) and his executives visited my office, the Office of the Foreign Investment Ombudsman, requesting a consultation. I could detect a sense of urgency. Their grievance was that a district office was about to take an administrative measure that would suspend the company’s business for four months based on a questionable legal interpretation of a disposition. The Investor stated it would file an appeal against the district office in the event of an unfair administrative disposition by the district office. But it also didn’t want to create a litigious environment with the Korean government nor risk the suspension of business. More importantly, critical safety services for customers would be jeopardized. The Investor was also seriously concerned about its future in Korea given the severity of the questionable interpretation by the district office.

I told the Investor that it has always been my highest priority, as the Foreign Investment Ombudsman, to extinguish fires immediately. I looked into the situation the day of the meeting.

The global Investor operates offices nationwide. An employee of a local office had been under police investigation for providing an improper payment to a private customer. The employee was charged with a criminal offense, but the police and prosecution concluded there was no evidence against the Investor (as a company) to hold them culpable for the improper payment. Nonetheless, a public servant of the district office in question was inclined to order a four-month business suspension against the Investor based on his broad interpretation of the penal provision, regardless of the decision by the local police and prosecutor who investigated the matter. The Investor had communication problems with the public servant and took issue with his advising it to pursue administrative litigation in court if it had objections.

I did not think the issue was subject to an administrative disposition.

I arranged a meeting between the Investor and public officials of the relevant division under the Ministry of Security and Public Administration, after speaking to the Vice Minister of Security and Public Administration on the phone. As the issue needed to be resolved through a face-to-face meeting between the Investor and the local government in charge of the administrative disposition, I relayed the Investor’s position to the head of the district office and arranged a meeting. I asked one of my principal consultants, Yoo Young Yeol, who is also the Home Doctor assigned to the Investor, to meet with the head of the district office with a senior executive of the Investor. The district, which had been ready to formally notify the Investor of its disposition, decided to revisit the legal and factual grounds of the issue and consulted with their lawyer.

A few days later, the Investor was informed that the case was not subject to a disposition by the district office.

Timing matters when it comes to effective grievance resolution. And that is why my staff and I aim to provide proper and timely support in the event of a grievance – to mend a small tear before it becomes a larger one.

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