



Legal updates

In this release, we would like to bring to your attention an overview of the following:

- Major amendments to the Migration Code
- New rules for critical information infrastructures
- Constitutional Court Decision on Labor Law
- Cybersecurity Strategy by Central Bank

Major amendments to the Migration Code

On April 4, 2023, the Law on amendments to the Migration Code of the Republic of Azerbaijan was adopted (Amendment).

The Amendment introduces changes to the rules for obtaining or extending the duration of temporary residence permits (TRP) and permanent residence permits (PRP).

Changes concerning the grounds for obtaining/extending TRPs

1) The criterion for investing at least 500 000 AZN in the country's economy is extended by including the ownership of state securities, immovable property, and fixed-term deposits in the local banks in the calculation of the total amount.

2) A new ground added: holding securities with a total nominal value of at least 100 000 AZN issued by the State or legal entities where the State holds 51 % or more stakes. The list of persons who obtains a TRP based on this criterion should be sent to the National Depository Center by the State Migration Service within 3 business days. The State Migration Center should be duly notified whenever the total nominal value of such holdings falls below 100 000 AZN or they are alienated.

3) The director of a legal entity or a person possessing at least 51% of the stakes thereof is entitled to obtain a TRP if (i) the legal entity is established in Azerbaijan; (ii) its founder or at least one of the founders is a foreigner, and (iii) amount of its charter capital satisfies the threshold to be determined by the Ministry of Economy (Ministry).

4) Persons engaged in entrepreneurial activity if at least 80% of their employees comprise of Azerbaijani citizens or the following persons (previously, only the citizens of Azerbaijan were considered for this purpose) who:

- have a PRP in Azerbaijan;
- are married to the citizens of Azerbaijan if that resident has a registration for the place of residence;
- applied for refugee status, received refugee status, or were granted political asylum;
- are considered to be victims of human trafficking or are providing assistance to law enforcement agencies;
- have Azerbaijani citizen juveniles or severely disabled persons in their custody.

Notes:

1. Items 3 and 4 do not apply to the business entities operating in the economic regions determined by the relevant executive authority which have investment promotion documents and "Startup" certificates, non-commercial legal entities, and residents of industrial parks, industrial districts, and agricultural parks.
2. Foreigners and stateless persons under items 3 and 4 who have temporarily been in Azerbaijan for more than a year will have a right to obtain a TRP only in case the turnover of such legal entity conforms with the threshold to be determined by the Ministry. In this case, a document obtained from tax authorities confirming the turnover according to the last year's tax report should be submitted in the TRP application process.

Changes concerning PRPs

The persons who were previously eligible for applying for a PRP will now be entitled to such an application under one of the below conditions:

- their parent, husband (wife), child, or sibling is a citizen of Azerbaijan;
- their total amount of investment in the country's economy is at least 500 000 AZN;
- they own at least 200 000 AZN based on a fixed-term deposit agreement in the banks operating in Azerbaijan (the list of such persons is kept in the respective banks);
- they own securities issued by the State with a total nominal value of at least 200 000 AZN or securities of legal entities where the State holds 51 % or more stakes (the list of such persons is kept in the National Depository Center);
- they own immovable property at the value of at least 200 000 AZN in Azerbaijan;
- they are high-level specialists in the economy, industry, military, science, culture, sports, and other fields;
- they are a family member of a foreigner or a stateless person permanently residing in the territory of Azerbaijan;
- they hold the position of the head or deputy head of the branch or representative office of a foreign legal entity in Azerbaijan;

- when the founder or one of the founders holds the position of director of a legal entity established in Azerbaijan, which complies with the charter capital and turnover requirements;
- when engaged in an entrepreneurial activity in Azerbaijan, provided that the turnover requirement is satisfied.

Charter capital and turnover requirements do not apply to non-commercial legal entities.

The basis for obtaining or extending the period of PRP before the introduction of this Amendment is considered a valid basis for the holders of such PRPs for obtaining or extending the period of PRP.

The Law entered into force on May 16, 2023.

New rules for critical information infrastructures

On 11 April 2023, the Law on amending the Law of Azerbaijan "On information, informatization and information protection" (the "Amendment") was adopted.

The Amendment introduces the below additional rules regarding critical information infrastructures:

- Owners (users) of information systems, automated management systems, and information-communication networks must submit the information requested by the competent authority within 30 days for the purpose of identifying critical information infrastructure objects.
- The founders of the cyber security service provider providing services to the subjects of critical information infrastructure and their authorized representatives, as well as the persons leading the activities of the provider on the security of critical information infrastructure and other employees involved in this activity must be citizens of Azerbaijan.
- The competent authority may require the subject of the critical information infrastructure to comply with the requirements for the security of the critical information infrastructure.

The legislation defines critical information infrastructure as a set of information systems, automated management systems, and information communication networks that provide activities in the field of public administration, defense, health care, financial markets, energy, transport, information technologies, telecommunications, water supply or ecology, and the functionality of which can cause significant harm to the interests of the state, society, and citizens.

The Amendment is effective from May 25, 2023.

Constitutional Court Decision on Labor Law

On 11 April 2023, the Decision of the Plenum of the Constitutional Court of Azerbaijan "On interpreting Article 172.5 of the Labor Code" was adopted.

According to the Decision, the provision provided for in the 5th part of Article 172 of the Labor Code stating that "for each delayed day, the employees must be paid in the amount of at least one percent of their salary", is also applicable when an individual labor dispute arises. Prior to the Decision, this provision caused ambiguities as regards its applicability in the existence of individual labor disputes.

Cybersecurity Strategy by Central Bank

With the support of the International Finance Corporation (IFC), a member of the World Bank Group, the Central Bank developed and approved the "Cybersecurity Strategy in Financial Markets" (the "Strategy") for 2023-2026.

The vision behind this Strategy is to strengthen cyber resilience in the country's financial markets against the increasing cyber threats in order to ensure financial stability.

Therefore, the Strategy aims to create a sustainable cyber security environment in financial markets by covering activities on five strategic priorities:

- Strengthening the regulatory and control framework for information and cyber security in financial markets;
- Strengthening the culture of cyber risk management in financial markets;
- Formation of the management framework of information technologies in order to strengthen the level of cyber security in financial markets;
- Strengthening cyber resilience in financial markets;
- Formation of information and cyber security culture in financial markets.

Contacts

We hope that you will find this overview helpful. For more detailed information, please contact the following specialists:



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