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Investing across Borders™

Azerbaijan, Republic of

01



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INTRODUCTION

Investing across Borders[™] is a series of Bureau 28a publications intended to address two audiences at a time: those investing (or interested in investing) into a jurisdiction and out of it. Naturally, the first publication in the series is *Investing across Borders: Azerbaijan, Republic of*. The publication and information in it do not, and are not intended to, constitute legal or other advice.

Publications of this sort have been prepared before, however, with the rise of local investments, in this case, from Azerbaijan, it is the first time that a single publication addresses both foreign and local investors. The cross-border nature of this publication matches the profile of our Firm.

Our Firm offers expertise in all areas of Azerbaijani law relevant to businesses, governments, not-for-profits, and individuals with interests here in the cross-border and domestic contexts alike.

Our proposition lies primarily in the cross-border:

- we aim at giving best local law and practice advice to those from outside entering, already in, interested in, or exiting the market;
- we assist those from Azerbaijan investing outside; and
- we help bringing to those on the ground here best practices worldwide.

Our lawyers have been accumulating experience along the path the Republic has been evolving in the past three decades from a newly independent jurisdiction opening to the world to an accomplished self-reliant investor and a host in its own rights.

We have helped new entrants into the Azerbaijani oil and gas production and transportation as well as infrastructure markets, assisted local corporates with first acquisitions and investment projects outside Azerbaijan, represented local institutions aspired to live up to the best international standards, and continue to be on the cutting edge of legal advisory.

We advise in various transactions, most notably, corporate acquisitions (mergers and acquisitions, M&A) and reorganizations, advise on all areas of Azerbaijani law, including employment and labor laws, contract law (drafting, implementation, and enforcement, including remedies), migration, intellectual property (IP), antimonopoly, and tax and customs laws.

Our lawyers are experienced in all major industries operating here, energy, including renewable, banking and finance, and telecommunications to name a few, and are familiar with the issues under commercial agreements and practices applicable within each.



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REPUBLIC OF AZERBAIJAN

Azerbaijan is a republic that regained its independence from the USSR in 1991. Prior to that, the country had a brief period of independence as a republic from 1918 to 1920.

The country is located between the 39th and 41st parallels north and the 45th and 50th (or 51st, including the Azerbaijani sector of the Caspian Sea) meridians east. It shares borders with the Caspian Sea to the east, Iran to the south, Armenia and Turkiye to the west, and Georgia and Russia to the north. Its total land area is 86,600 square kilometers.

Azerbaijan's capital, Baku, the largest city on the Caspian Sea, has developed under the influence of Zoroastrian, Sasanian, Arabic, Persian, Sirvani, Ottoman, and Russian cultures, forming a rich cultural continuity. Much of what Azerbaijan is today is a shared heritage with the peoples, nations, and states that have been a part of its geography.

History

During different periods of time, influence over what is today's territory of Azerbaijan has been changing dramatically. Factors contributing to it are Azerbaijan's geographical location and rich natural resources. Throughout the history, the country, its people, and culture were dominating larger states and formations, such as the Safavid state, or were influenced by larger formations, such as the Ottoman and Russian Empires.

The first country formations on the territory of Azerbaijan (1,000 BC) belonged to Manna, Skit, Scythe, Iskim, as well as powerful Atropatene kingdom and Caucasian Albania. Arabian rule in the 7th century AD, succeeding that of Iranian Sassanid Empire in the 3rd century AD, introduced Islam to the local population, which simplified the creation of common language, traditions, values, and beliefs, and greatly bonded its followers. The establishment of five independent, though allied states, Sacids, Sirvansahs, and Saddadids, on Azerbaijani land was the next vital step for the country.

The period from late 15th to early 16th century bears a huge significance not only for Azerbaijan, but for the entire world history since these were the glory days of establishment of a strong Safavid state and dynasty. The founder of this dynasty, Ismail I, also known as Sah Ismayil I, managed to unify the territories that extended into the entire or partial territories of today's Azerbaijan, Iran, Armenia, Iraq, Afghanistan, Pakistan, Turkmenistan, Turkiye, India, and Russia. Sah Abbas, Abbas I, or Abbas the Great is considered the greatest ruler of the Safavid dynasty reigning from 1588 to 1629.

Another prominent figure in the history of what is today's Azerbaijan is Nadir Sah Afsar, the founder as of 1736 of the Afsarid dynasty and state. Soon after Nadir Sah's death, the state collapsed splitting into several khanates and sultanates. This led to the cessation in the early 19th century of today's Azerbaijan to the Russian state.

With the collapse of the tsarist Russia and help from the Ottomans, Azerbaijanis established in 1918 the Azerbaijan Democratic Republic, also known as ADR. However, its existence did not last long; in 1920, Azerbaijan was effectively annexed to the Union of Soviet Socialist Republics and remained its part until 1991, before USSR's total disintegration. Azerbaijan declared reinstatement of independence on 30 August 1991 and passed the Constitutional Bill of State Independence on 18 October 1991.

During last years of USSR's existence, a conflict over Daglig Qarabag (Nagorno-Karabakh) region of Azerbaijan broke out exacerbating the relationship between Armenia and Azerbaijan. Following the 44-day liberation movement by Azerbaijan in 2020 resulting in restoring its sovereignty over the region, negotiations for a definite peace accord are underway.

Geography

Located in the southern part of the Caucasian region in Eurasia, Azerbaijan occupies a total land territory of 86,600 square kilometers. To the east, Azerbaijan is bounded by the Caspian Sea, and this natural border has facilitated the development of Baku harbor as a center of the oil and related industries in the area; Baku is the largest city on the Caspian Sea and of the Caucasus.

Azerbaijan shares land borders with Russia and Georgia to the north, Iran to the south, and Armenia to the southwest and west. The Naxcivan Autonomous Republic, isolated from the rest of the country by Armenian land, borders Turkiye to the northwest.

Roughly half of Azerbaijan's territory is mountainous. The Greater and Lesser Caucasus ranges to the northeast and west, along with the Talis (Talysh) Mountains to the southeast, encircle the country with elevated areas.

Although there are more than 8,000 rivers in Azerbaijan, only 24 of them are long enough to be considered (with the Kur River being the longest). All the rivers, without exception, flow into the same destination – the Caspian Sea.

Despite being a relatively small country, Azerbaijan exhibits nine out of the eleven climate patterns from the Koppen climate classification. This extensive variety creates opportunities for the development of the agricultural sector.

Population

Azerbaijan has a population of over 10 million, ranking 90th on the list of the world's most populous countries. The population density for the region is 120 people per square kilometer, although it is significantly higher in the largest city and capital, Baku, where it reaches 1,056 people per square kilometer. Baku is home to 2,270,030 citizens, while the next-largest Azerbaijani cities, Sumqayit and Ganca, have populations of 426,020 and 333,324 people, respectively.

Approximately half of the Azerbaijani population, or 55.2 percent, resides in urban areas, leading to an evenly distributed population across the territory.

Azerbaijan has a relatively young demographic profile, with 65 percent of citizens falling between the ages of 15 and 54. In contrast, senior citizens make up only 19 percent of the total population.

Regarding ethnic composition, based on the 2009 census, Azerbaijani Turks account for over 91 percent of the population. However, Azerbaijan boasts ethnic diversity, as the remaining proportion of the population is composed of various ethnic groups, including Lezgin, Armenian, Russian, Talis, Avar, and others.

Economy

Background

Since the dissolution of the Soviet Union in 1991, the Azerbaijani government has been dedicated to eradicating old economic paradigms and implementing economic reforms. Azerbaijan is now a member of international institutions such as the International Monetary Fund, World Bank, Asian Development Bank, European Bank for Reconstruction and Development, which has facilitated its integration into the global economy.

Previously, Azerbaijan's economy heavily relied on oil and gas, but there has been a recent shift towards the more intensive development of the non-oil sector. This transition is expected to create more job opportunities, improve living conditions in rural regions, provide better prospects for private businesses, and reduce poverty.

Gross Domestic Product

As of 2021, the GDP is reported by the State Statistics Committee at AZN92,857.7 billion (USD54,622.2 billion),¹ representing 0.02 percent of the world economy.² Over a 32-year period, from 1990 to 2022, the average value of Azerbaijan's GDP was USD25.31 billion. The GDP, according to the World Bank, peaked at USD75.24 billion in 2014 and hit its lowest point at USD3.05 billion in 1995.

¹ https://stat.gov.az/menu/6/statistical_yearbooks/source/stat-yearbook__2022.zip The number (nominal GDP) for 2022 is reported at AZN133.8 billion (\approx USD79 billion, <https://stat.gov.az/news/index.php?lang=en&id=5403>).

² <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=AZ>



Sectors of Economy

The Azerbaijani economy relies on industry, agriculture, and services, particularly tourism.

Agriculture: Although agriculture constitutes only around five percent of Azerbaijan's GDP, it employs 1,809,000 people or 36.3 percent of the workforce. Of the total territory of Azerbaijan, 55.2 percent are agricultural land (of which 27.9 percent are haymaking and pastures and 28.2 percent is other land); 17.15 percent of the total territory is irrigated. 50.8 percent of the agricultural production are livestock and the remaining 49.2 percent are crops; major crops are vegetables, cereal, fruits and berries, and potatoes.³

Industries: Manufacturing accounts as of 2022 for 51.1 percent of the GDP employing 741,800 people or 14.87 percent of the workforce. Apart from hydrocarbon reserves, Azerbaijan is rich in natural minerals and metals such as gold, silver, copper, and more. Also, Azerbaijan is developing large renewable power projects.

Services (Tourism): Azerbaijan attracts tourists from around the world and the tourism industry has experienced significant growth in the number of visitors and overnight stays peaking 2,863,500 in 2019. Tourist accommodation and public catering accounted for 1.6 percent of the GDP for 2022. Touristic hotspots like Sahdag Ski Resort adhere to world-class standards of services and products.

Business Environment

As of late 1990's and early 2000's, Azerbaijan has been topping the foreign direct investment (FDI) per capita rankings among the Commonwealth of Independent States (CIS) countries. Since then, Azerbaijan ranks consistently high as a reformist country and for ease of doing business. While, for 2021, the FDI flow was reported negative, for 2022, it is reported at USD6,275,850,000.

³ https://stat.gov.az/menu/6/statistical_yearbooks/source/agriculture_2022.zip

CONSTITUTION AND FOREIGN RELATIONS

CONSTITUTIONAL ORDER

The *Constitution of Republic of Azerbaijan* was adopted by a public referendum on 12 and took effect as of 27 November 1995. It has the highest legal force and direct effect throughout the territory of the Republic. Other acts adopted in Azerbaijan must not contradict the Constitution.

The Preamble of the Constitution proclaims the objectives of its adoption, such as the protection of independence and sovereignty of the Republic and cooperation with the rest of the world for a peaceful coexistence. The Constitution proclaims its foundation on the key principles of the *Constitutional Bill of State Independence of Republic of Azerbaijan*. The principles include supremacy of human rights, sovereignty, economic freedom, and separation of powers.

The legislative power in Azerbaijan rests with the Milli Maclis (the National Assembly, unicameral parliament), the executive power rests with the President of the Republic, and judicial power rests with the courts of the Republic.

The Milli Maclis initiates bills, reviews them, and passes laws. It approves presidential decrees declaring martial law and a state of emergency. The parliament also gives its consent to the use of armed forces beyond their approved competences.

The President, a head of the state, is the guarantor of the state independence of Azerbaijan, its territorial integrity, and compliance by the Republic with international agreements that the Republic recognizes. Among others, the President appoints and dismisses Vice-Presidents, Prime Minister, and the Cabinet of Ministers.

Judicial power is exercised by the courts of the Republic that include the Constitutional Court, Supreme Court, appellate courts, as well as courts of general jurisdiction and other specialized courts.

The state power internally is only limited by law and externally by the provisions of international agreements that Azerbaijan recognizes. Such agreements are a part of the Republic's legislation; in case of contradictions between such agreements and other legislation except for the Constitution itself, and other acts adopted by public referenda, the agreements apply.

The Constitution establishes the Constitutional Court of the Republic of Azerbaijan functioning as of July 1998 and governed by the 2003 *Law of Constitutional Court*. This Court is a key body in the system of constitutional control and supervision. It verifies the conformity of legislation and other acts with the Constitution.

The Constitutional Laws, *On Commissioner for Human Rights (Ombudsman)*, and, *On Regulating Exercise of Human Rights and Freedoms in Republic of Azerbaijan*, were adopted in December 2001 and December 2002, respectively. The office of the Ombudsman has been functioning since October 2002.

While in Azerbaijan, foreigners and stateless persons may enjoy all the rights and perform all the duties equally with the citizens of the Republic, unless otherwise provided for by law or an international treaty recognized by Azerbaijan. The extent of rights and obligations of foreigners and stateless persons *vis-à-vis* the citizens may further vary depending on a matter (e.g., foreigners may not own land).

FOREIGN RELATIONS

The year 1991 marked a pivotal moment in the history and international affairs of the country as it regained its independence and started cultivating diplomatic relationships and establishing alliances worldwide. The number of missions that Azerbaijan has established is reported locally at 89 (of which 66 are embassies, six permanent missions, nine general consulates, and eight other representations).

International Organizations and Multilateral Cooperation

Through its active participation in various international organizations, including the United Nations (UN), Organization for Security and Cooperation in Europe (OSCE), and Organization of Islamic Cooperation (OIC), Azerbaijan aims to advance its national interests, support peacekeeping efforts, promote regional stability, and collaborate on important global issues such as counterterrorism, human rights, and sustainable development.

Great emphasis is placed on fostering relations in the fields of energy, trade, transport, and cultural exchange with neighboring countries, such as Georgia and Russia, as well as Turkiye and other Turkic and adjacent states, to enhance regional stability by promoting economic integration and developing infrastructure.

The country's abundant oil and gas resources have notably enhanced its position as a major participant in global energy markets, strengthened the ties with European countries, and cemented its status as a dependable energy provider.

The nation establishes preferential trade regimes, by signing bilateral and multilateral trade agreements and active participation in international trade organizations (see Chapters, Foreign Investments, Use of Third Jurisdictions, and Customs, below).

Regional Engagement and Conflict Resolution

Azerbaijan's foreign relations are rooted in regional involvement and a commitment to peacebuilding policies. The interactions and changes occurring within the country have been significantly shaped by the enduring conflict over Dagliq Qarabag. Azerbaijan has been pursuing diplomatic and peaceful settlement of the conflict with the involvement of international organizations, which efforts have regained momentum following Azerbaijan's peacemaking operation of 2020.

International Humanitarian and Cultural Initiatives

To promote its vibrant heritage and strengthen interpersonal connections, the nation actively participates in humanitarian and cultural initiatives. Cultural diplomacy and intercultural cooperation are nurtured by means of diverse cultural programs and exchanges showcasing the traditions, arts, and historical contributions of the country.



FOREIGN INVESTMENTS

General

Making investments and their regime, including protections, are governed by the *Law of Investment Activity of 2022*.

Investment is any funds, securities, and other assets (such as property and other rights of a monetary value) contributed into the objects of entrepreneurial activity with the aim of making profits. Both entities and citizens of the Republic of Azerbaijan as well as foreigners, stateless persons, non-resident entities, including through branch and representative offices, international organizations and foreign governments/states can engage in regulated investing. Investing must comply with the principles of legality (and) sanctity of property, protection of human rights and freedoms, and protection of confidential information.

Investing takes any of the following forms:

- establishment of entities and corporate reorganizations;
- acquisition of shares/participatory interest/securities;
- operating a branch and (or) representation in Azerbaijan;
- individual entrepreneurship;
- making agreements;
- acquisition of property (dwellings), including property rights and other rights of a value;
- rights to lease land; and
- other forms not prohibited by law.

Foreign investors cannot be discriminated against.

Azerbaijani law prohibits nationalization and (or) confiscation of foreign investment in the territory of Azerbaijan without the prior consent of investor, except for requisition and confiscation for public needs. The Republic provides guarantees of compensation for damages following such actions. An investor will receive compensation calculated based on a market price.

Foreign investors in Azerbaijan are entitled to repatriate freely their profit, including dividends, interest, royalties, and other income derived from sources within Azerbaijan.

An investment activity may be suspended or terminated by a court order, voluntary decision of an investor, or in compliance with applicable laws and contractual terms.

International investment agreements, which Azerbaijan is a party to, offer advantages to participating parties. Such agreements are the bilateral investment treaties (BITs), treaties with investment protections (TIPs), and investment related instruments (IRIs). Azerbaijan is a party to about 50 BITs, several TIPs, and majority of IRIs.⁴

Carrying on Business

A foreign investor may operate in Azerbaijan as such, *i.e.*, a limited presence, through a branch office (as well as, for sole proprietor investors, engaging in business as a sole proprietor) or opt for a full presence establishing locally a business entity.

Non-resident business companies may register in Azerbaijan a representative office and branch. Both a representative office and branch are separate divisions of an entity; while the former may only engage in liaison functions, the latter discharges in whole or in part all functions of the company. The legal capacity (proper law) of a foreign business entity choosing to operate here through a limited presence remains largely subject to the rules of its home jurisdiction.

Commercial entities, a full presence, can be formed as a partnership or a company in any of the following forms:

⁴ <https://investmentpolicy.unctad.org/international-investment-agreements/countries/13/azerbaijan>

- general partnership;
- limited partnership;
- joint stock company (JSC);
- limited liability company (LLC); and
- additional liability company (ALC).

Contributions made into the charter (authorized and paid in) capital of an entity represent funds, securities, property and property rights, and other rights of a value. An assessment of contributions made in kind is made on the basis of an agreement between the founders (participants). Audits are carried out by an independent expert.

Commercial entities, including foreign entities operating through branch and representative offices, can engage in business in Azerbaijan only after they have been state registered.

Refer to Chapter, Establishing Business, of this publication for the review of commercial partnerships and companies.

Securities Market

Investors may acquire investment securities (*i.e.*, shares and bonds) and financial instruments. A security (financial instrument) is a document certifying validity of contractual relations between a holder of the security and issuer and the rights arising under the instrument.

Securities can be bearer and registered. Registered securities are registered within the central depository containing the name of a holding owner. For bearer securities, the issuer undertakes for the benefit of any person presenting these securities.

Investment securities, whether paper or e-securities (paperless), are issued as registered securities.

Only joint-stock companies may issue shares. Shares are issued on the basis of a resolution of the general meeting of shareholders. Shareholders have a priority right to acquire shares issued by the company to the extent of their contributions, which they can exercise for ten days upon receiving the relevant offer (the price of the shares so offered cannot be below the one offered to third parties).

A resolution on the issuance of bonds is made by a body specified in the charter of the issuer.

A placement of investment securities (*i.e.*, acquisition of securities by the first owner) takes place by making a public offer or through a closed placement. A public offer is an offering an undefined number of securities to a person, or to more than 50 persons, or through mass media. A closed placement, on the other hand, takes place by offering securities to less (no more) than 50 persons or specifying in the resolution of issuance of securities the investors acquiring the securities.

A publicly held trading is transactions made as a result of offering of securities or financial derivatives to an unlimited number of buyers. The sale/placement of securities is organized by a stock exchange.

The number of placed securities cannot exceed that specified in the resolution on issuance of securities or an emission prospectus. If the number of placed shares is lower than that outlined in the resolution or emission prospectus, the issuance is deemed failed and not closed. Underwriters may participate in placements.

A public offer of investment securities is accompanied by the emission prospectus. An issuer or person offering securities must draft an emission prospectus for the sale of investment securities.

The emission prospectus is not required in the following cases *inter alia*:

- issuance of securities by the state or municipality, international organizations, or the Central Bank (CBA);
- provision of state guarantee of issuance of securities;
- the value of securities offered to each investor does not exceed the threshold set by the CBA; and
- issuance of shares which do not require payments from shareholders.

The emission prospectus is replaced with an information memorandum in the following cases:

- shares offered as a result of corporate reorganization;
- the number of issued investment securities does not exceed that determined by the CBA;
- an aggregate nominal value of securities issued within one calendar year does not exceed the amount determined by the CBA; and
- offer made to institutional investors.

The emission prospectus once approved by the CBA shall be published on the website of the issuer and stock exchange. The issuer or a person offering investment securities must provide the CBA with the report on results of issuance of securities or public offering within ten days of the placement/public offering.

Investment Companies

A JSC may engage in an investment activity consisting of among others: acceptance and discharging of orders to transact with securities, management of assets, providing investment-related advice, placement of securities/financial instruments, transacting with securities as a member of central depository and stock exchange, operating “securities” accounts, and conducting investment/financial research in relation to securities and financial instruments. An investment activity is carried out by holders of special licenses (authorizations).

Investment companies must avoid specific situations of the conflict of interest while dealing with their customers. As such, the companies can be restricted from making profits on a customer’s loss-making account or engaging in a business similar to that of their customers or persons related to them.

Investment companies and depositaries of investment funds, *i.e.*, persons holding licenses to act as a depository, jointly form the depository system.

The depository system is a system of relations between the central depository and its members for opening accounts, carrying out transactions on those accounts and transfer of funds, maintaining the register of accounts of owners of securities, storage of securities, registration, and approving rights related to securities. The depository system is run by the central depository, the National Depository Center, operating as a not-for-profit not liable for the liabilities of its members.

Incentives

For the development of investment activity, the state offers the following benefits to investors among others:

- tax exemptions and other advantages in relation to public payments;
- creation of special economic regimes, including special and free zones, industrial parks and districts, technology parks, and other special regimes; and
- development under a public-private partnership (PPP) mechanism.

An investment incentive certificate is a document allowing the holder to benefit from tax exemptions prescribed for entities and individual proprietors engaged in investing. Foreign investors holding the investment certificate are exempt from paying certain taxes (such as the land tax and value added tax, VAT) for seven years from the date of receipt of the certificate. Only 50 percent of the profit of the holder is subject to the profits tax (presently, at 20 percent).

Among special economic regimes, the Alat Free Economic Zone operates as the most recent one established by a special legal act. Entities in the Zone may be owned in whole by foreign investors.

Azerbaijan is a party to a number of bilateral free trade agreements, all of them with the countries of the former Soviet Union, as well as is a party to the preferential trade agreement with Turkiye. Among the multilateral agreements, the Republic is the signatory to the *Agreement on Establishment of Free Trade Area between the GUUAM Participating States*, which is yet expected to become operational.

For avoidance of double taxation, Azerbaijan entered into over 50 bilateral agreements with foreign states/governments. As a general rule, income derived from one contracting state and taxed therein would be exempt from taxation in the other contracting state and, where taxed in both states, the tax paid in one state would be credited against the tax in the other. Depending on a treaty, such can offer an exemption from various taxes (such as the branch profits tax).

PPPs

The PPP/joint-ventures are governed by the Law, *On Public Private Partnership*, effective 27 December 2022.

A PPP is a joint activity of private and public partners based on an agreement on the provision, developing and managing the infrastructure, of public services. A public partner is a public authority and other agencies as well as a municipality and municipal enterprises. A private partner is any individuals and entities.

Where required by international undertakings or considerations of public safety of the Republic, participation in competitive procedures of listed foreign applicants or applicants from listed foreign jurisdictions, their ability to make offers as a part of a private initiative, or direct negotiations, can be restricted. PPP agreements with foreign counterparties, including persons they control, or involving foreign and international financiers can be governed by foreign law.

The Law introduces the competent authority, the Ministry of Economy. The Ministry determines the forms and methods of the Republic's participation in each PPP project. The authority also prepares for the approval of the Cabinet of Ministers annual lists of PPP projects that the Republic considers developing under the PPP model.

A PPP project is announced by the competent authority. Interested parties make their offers in response to the announcement in accordance with the set of competitive selection documents. Applicants may form joint ventures among themselves for the purposes of bidding.

Project offers are assessed based on the following criteria:

- amounts payable by a public partner to a private partner and how they are shared during a project's lifetime;
- state support and guarantees;
- term of the project where its implementation period is a part of an offer;
- forecast of results of work and compensation for damages related to failures to perform contractual obligations;
- technical, esthetic-functional, and innovative features of a project offer; and
- risk management measures offered by an applicant.

A PPP project is made for 49 years at most with particular project timelines determined by the competent authority. The authority also resolves on a participation in a project company of a public partner – such participation cannot exceed 49 percent of equity of the company.

A private partner may benefit from guarantees specified in the competitive procedure documents, such as: (i) uninterrupted supply of goods, materials, raw materials, and equipment for implementation of a PPP project; (ii) secured minimal revenues of the project; (iii) guaranteed offtake of the project's output; (iv) subsidies and loans and invested funds; (v) guaranteed level of regulated prices; (vi) exclusive rights to supply goods, works, and services in Azerbaijan or a part of it; and (vii) cost recovery and compensation for lost profits.

A private partner would be compensated for an increase of costs and decline of revenues under a PPP agreement resulting from amendments to Azerbaijani legal and regulatory acts made after the PPP agreement. The amount of compensation can be specified in the PPP agreement.

To obtain financing, a private partner may provide security to project creditors. Encumbering a public partner's share of the project company can be made subject to observing undertakings of the Republic under international agreements. Where so specified in direct agreements with creditors, the competent authority has a preemptive right upon acquiring an encumbered asset.

At termination of a PPP agreement, an infrastructure built by a private partner remains its property or is alienated to a public partner. The public partner has a preemptive right or an obligation to purchase the infrastructure. If the infrastructure belongs to the public partner, it can be alienated to the private partner and, should that partner already manage it, it will have a preemptive right to purchase it.

State-owned land can be provided to a private partner under a lease or use right as well as contributed into a project company. Municipal and private land required for a PPP project can be acquired or leased by the Republic.

Islamic Finance

The Strategic Roadmap of National Economy Outlook of 2016 acknowledges the role of developing Islamic finance to attract foreign investments, particularly, from the Gulf countries. A number of financial institutions in Azerbaijan were offering services based on Sharia and the Islamic Development Bank (IDB) undertook in 2017 to allocate a grant to the government to provide technical assistance to draft legal framework for Islamic finance. Presently, there exists no specific local legal regulation of the services.

USE OF THIRD JURISDICTIONS

Azerbaijan participates in international relations on bilateral and multilateral levels and is an active regional player.

Among the treaties, Azerbaijan participates in, double taxation avoidance and investment treaties are of a special importance to investing. Azerbaijan participates also in multilateral treaties and conventions, such as treaties and conventions with neighboring states and so-called universal treaties and conventions concluded on a worldwide basis. Availability of treaty protections in relation to Azerbaijan to investors from one state puts them into an advantageous position *vis-à-vis* the investors from the states that do not have such treaties with Azerbaijan.

Azerbaijan is a member of the United Nations (UN), CIS, Organization of Islamic Cooperation (OIC), Economic Cooperation Organization (ECO), GUAM Organization for Democracy and Economic Development (GUAM), Organization of the Black Sea Economic Cooperation (BSEC), the Hague Conference on Private International Law, and some other smaller international organizations and forums. Azerbaijan participates in the International Monetary Fund and International Bank for Reconstruction and Development (IBRD), International Development Association (together with IBRD, known as the World Bank), European Bank for Reconstruction and Development (EBRD), Asian Development Bank (ADB), IDB, and other international and regional financial institutions and programs.

Azerbaijan's participation in treaties and conventions relates to a large extent to its participation in international and regional organizations. Azerbaijan is a party to the *Convention on Recognition and Enforcement of Foreign Arbitral Awards* (the New York Arbitration Convention), *Convention on Settlement of Investment Disputes between States and Nationals of Other States* (the ICSID Convention), *Energy Charter Treaty*,

Convention Abolishing Requirement of Legalization for Foreign Public Documents (the Apostille Convention), and the *2002 CIS Convention on Legal Assistance and Legal Relations over Civil, Family, and Criminal Cases (Proceedings)*.

A resident of a country, which is a party to an instrument that Azerbaijan is a party to, may rely on the protections in that instrument while embarking upon a cross-border investment. There are cases, however, where either the protections in multilateral instruments are not adequate or there are areas to which such instruments do not apply. The most obvious example of such areas is the area of international taxation.

Azerbaijan has double taxation avoidance treaties with over 50 jurisdictions – see Chapter, Taxes. The treaties are instrumental to the avoidance of taxation of incomes of residents of contracting states both in the state of residence and in the contracting state from where incomes are sourced. The exemptions from double taxation can apply to income from operations and from investments in the contracting state through holding and similar structures, loan instruments, and assignment of rights.

Particularly, a treaty may exempt income from operations in the contracting state if a resident of the other contracting state has no taxable permanent establishment (PE) in the former. The treaties might provide for lower withholding tax rates applicable to dividends, interest, and royalties as well as, arguably, to the PE net profits tax applicable in Azerbaijan at the rate of ten percent. A resident from the state with a double taxation treaty with Azerbaijan can benefit from the lower taxation provided under the treaty.

Similarly, a preference, typically in relation to import duties, can be granted for imports from one state into another if the states participate in a multilateral or bilateral agreement on free trade or in a form of a customs union. Azerbaijan does not participate in any customs unions or multilateral customs or free trade agreements (except for, presently, *Agreement on Establishment of Free Trade Zone among GUUAM Member States*, dated 20 July 2002, a practical implementation of which is pending). Azerbaijan has and implements a number of bilateral free trade agreements with a number of neighboring and CIS-member states, such as Belarus, Georgia, Kazakhstan, Russia, and Ukraine.

Another consideration to give when choosing where to set up an investment vehicle for investing into Azerbaijan is the status of investment protection *vis-à-vis* Azerbaijan. Investment protection is available again through multilateral and bilateral instruments. While certain protections can be available regardless of an agreement with Azerbaijan (for instance, political risks can be guaranteed because of a residence of the investor and risks that can be attributed to investing into Azerbaijan), others depend on whether there is a relevant agreement with Azerbaijan.

The *1996 Partnership and Cooperation Agreement*, which contains investment protections, includes the European communities and their member states as Azerbaijan's counterparty to the Agreement.

Azerbaijan entered into 52 BITs, including treaties with the USA, UK, and European and most neighboring countries, with 46 presently in effect.⁵ A BIT would afford to investors from the contracting states a status that is no less favorable than that afforded to local investors (the national treatment) or investments from third countries (the most favored nation treatment). Additionally, a treaty would provide for an opportunity of an investment (as opposed to commercial) arbitration at an established forum (e.g., the International Centre for Settlement of Investment Disputes Established under the ICSID Convention), pursuant to approved procedures (e.g., the UNCITRAL Arbitration Rules), or at any other arbitration institution or pursuant to any other rules as the parties to a dispute may agree upon.

Further agreements, for instance, participation in the Apostille Convention and availability of a legal assistance treaty, can be adding to advantages of one jurisdiction over another.

Additionally, there are considerations to be given to the regime in the jurisdiction (for instance, low tax rates) while choosing one for investing into Azerbaijan.

Azerbaijan regards a jurisdiction (territory) low-tax based on any of the following criteria:

- those with the tax rate at 75 percent and lower of the rate applicable under the Tax Code;
- those not exchanging information with the Republic according to the relevant standards under international agreements; and/or
- those with law protecting confidentiality of information of companies enabled to preserve secrecy of their financial data or beneficiary of property or income (profits).

The following jurisdictions are on the approved list of low-tax foreign jurisdictions and territories: Andorra, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Brunei Darussalam, Cape Verde, Cayman Islands, Cook Islands, Dominica, Fiji, Gibraltar, Grenada, Guernsey, Hong Kong (PRC), Isle of Man, Jersey, Labuan (Malaysia), Liberia, Lichtenstein, Macao (PRC), Maldives, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Niue, Palau, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Taiwan (PRC), Thailand, Trinidad and Tobago, Turks and Caicos Islands, Vanuatu, Union of the Comoros, and US Virgin Islands.

Direct and indirect payments by residents of the Republic, including resident individuals not tax-registered here, and PEs in the Republic of non-residents to persons incorporated in the listed jurisdictions, including their branch and representative offices in third jurisdictions, as well as to bank accounts in the listed jurisdictions are regarded sourced from Azerbaijan and taxed accordingly.

⁵ <https://investmentpolicy.unctad.org/international-investment-agreements/countries/13/azerbaijan?type=bits>



The Azerbaijani anti-money laundering (AML) and countering financing of terrorism (CFT) law defines high-risk areas (conflict zones) as jurisdictions and areas lacking an adequate AML/CFT system assessed by reputable AML and CFT sources, supporting armed separatism, extremism, mercenarism, and terrorism, not requiring upon financial transacting disclosure of identification information or documents, and subject to sanctions and similar measures imposed by international organizations. The Azerbaijani Financial Monitoring Service and responsible persons may implement restrictions and special measures, such as special KYC reviews, denying license, and restricting business and financial transactions, in relation to high-risk zones. The Service promulgates the list of high-risk jurisdictions subject to a FATF call for action, which presently includes the Democratic People's Republic of Korea (DPRK), Iran, and Myanmar.

The list of the following non-cooperative countries remains effective since 2017: the Islamic Republic of Afghanistan, Republic of Armenia, Belize, Union of Burma, Republic of the Congo, Republic of Cote d'Ivoire, Cooperative Republic of Guyana, Islamic Republic of Iran, Republic of Iraq, Democratic People's Republic of Korea, Lao People's Democratic Republic, Republic of Liberia, Federal Republic of Somalia, Republic of the Sudan, Kingdom of Thailand, and the Socialist Republic of Vietnam.

ESTABLISHING BUSINESS

A business (entrepreneurial) activity is an activity carried out by a person independently for the purposes of making a profit out of the use of property, supply of goods, and discharge of works and supply of services. The right to engage in business is guaranteed by the Constitution of the Republic. It may be carried out by citizens of the Republic of Azerbaijan (except for public officials), entities, any foreigner or stateless persons, and foreign entities.

Subjects of entrepreneurship are divided into the following categories (a subject is determined based on the higher of the two criteria thresholds):

Subjects of Entrepreneurship	Number of Employees	Annual Revenue, AZN
Micro	1-10	≤₼200,000
Small	11-50	>₼200,000 and ≤₼3,000,000
Medium	51-250	>₼3,000,000 and ≤₼30,000,000
Large	>250	>₼30,000,000

To conduct a business, an entrepreneur has a right to among others: (i) establish enterprises and manage them; (ii) open and operate bank accounts; (iii) hire and fire employees; (iv) use net profits made from business activity; and (v) charge and determine pricing for goods, work, and services.

A business can be carried out through a sole proprietorship and by establishing a business (commercial) entity and operations are possible only after having been registered as an entrepreneur or entity. An entity registration is available as a full presence (establishing locally a business entity) or a limited presence through a representative or branch office of a foreign entity.

Local business entities are incorporated in the forms below:

General Partnership

A general partnership is an entity formed by general partners carrying on business in the name of the partnership and personally liable for the partnership's liabilities (obligations). A general partnership must have at least two partners (sole proprietors and/or commercial entities) to operate. A person may be participant solely in one general partnership.

To the extent general partnership assets are insufficient, partners are liable for the partnership jointly and severally by their assets (a subsidiary liability).

The general partnership is run by the general meeting of partners. The partners may carry out an entrepreneurial activity jointly or appoint one of them as a managing partner/manager acting in the name of the partnership. In this case, other partners may make transactions on behalf of the partnership solely on the basis of an authorization (power of attorney), unless the manager is terminated.

A withdrawal from a partnership occurs voluntarily or by a court order. Upon a voluntary withdrawal, the withdrawing partner must notify the remaining partners at least six months in advance. A withdrawal does not cause a dissolution of a partnership unless the partnership remains with a single partner. In this case, the remaining partner is entitled to transform the partnership into a company within six months of the date of withdrawal/occurrence of the event leading to restructuring or shall proceed with terminating the partnership.

A partner withdrawing from a partnership remains liable for the partnership's liabilities for two years following the approval of an activity report of the partnership for the year of withdrawal. The shares (participatory interest) belonging to the withdrawing partner may be alienated to other partners or third parties.

Taxwise, general partnerships are not passthrough.

Limited Partnership

A limited partnership is an entity formed by general partners (sole proprietors and (or) commercial entities) carrying out an entrepreneurial activity in the name of the partnership and personally liable for partnership's liabilities (obligations) and limited partners (natural and legal persons) whose liability is limited by the amount of their contributions. A limited partnership must have at least one general partner and one limited partner to operate.

A person can be a general partner solely in one limited partnership. A partner in a general partnership cannot be a general partner in a limited partnership. A founder of the partnership shall make contributions to the charter capital of the partnership (a participation certificate is delivered to the former).

A partner has among others the following rights:

- to receive dividends;
- to review annual reports and balance sheet of the partnership;
- to withdraw from partnership at the end of the financial year and receive compensation equal to the value of the contributions made; and
- alienate the shares (participatory interest) to other partners or third parties.

A limited partnership is terminated in the event of withdrawal of all partners. As with general partnerships, being a separate entity, limited partnerships do not offer its partners, general or limited, a tax passthrough treatment.

LLC

An LLC is established by one or more natural and legal persons (in the latter case, an entity must have at least two shareholders). The charter capital of the LLC is divided into the number of shares determined by the charter. The participants of LLC are not liable for the company's liabilities (obligations) except to the extent of their contributions.

An LLC is by far the most popular company form in Azerbaijan. A number of participants in an LLC must not exceed 50.

The general meeting of participants is the company's supreme governing body. The meeting has an exclusive competence in:

- making amendments to the charter and changing the amount of the charter capital;
- appointing the executive body as well as members of the board of directors and terminating them;
- approving the annual reports and financial reports and distribution of profits and losses;
- restructuring or terminating the company;
- making a related-party transaction with a value equal to or exceeding five percent of the value of the company's net assets; and
- transacting with a value exceeding 50 percent of the value of the company's net assets.

The meeting may discuss any matters in relation to the company's activity, regardless of whether the company charter so provides as well as any conflicting competence of the company's any lower bodies.

An LLC is run by its executive management body, a sole or collegial (composed of natural persons). Executive management functions may also be entrusted to an (outside) manager.

The charter may provide for the establishment of an audit commission and board of directors. The former monitors the activity of executive management. In the absence of an audit commission, the relevant functions are performed by the board of directors, which must meet at least every three months.

The participants are allowed to sell their shares to third parties under the condition that other participants do not exercise their right of first refusal within the defined term of receipt of the offer to sell.

ALC

An ALC is established by one or more persons. The participants are liable for the company's liabilities in excess of their contributions.

JSC

A JSC can be established by one person (an individual or entity). As with LLCs, the sole shareholder of a JSC cannot be an entity with a sole shareholder. A JSC may be open and closed.

In an open JSC, shareholders may freely alienate their shares. In a closed JSC, the shares are distributed among its founders or defined persons and may be alienated outside subject to the shareholders not exercising their right of first refusal and the JSC failing to buy the shares. A closed JSC cannot have more than 50 shareholders and the shares in it cannot be subject to public offerings.

Shares in a JSC can be ordinary (common) and preference. While a holder of ordinary shares may have unrestricted voting and management rights, a holder of preference shares instead secures fixed dividend rights.

Shareholding is maintained by a central depository.

The supreme governing body of a JSC is the general meeting of shareholders. Just like in an LLC, shareholders resolve on matters of particular significance (e.g., amendments to the charter and transactions valued at more than 25 percent of value of the company's net assets).

A board of directors is formed in a JSC with more than 50 shareholders (as well as institutions of public significance).

Executive management rests with the sole or collegial body. A person holding at least 20 percent of shares in the JSC may not be appointed as a member of the executive body. Functions of the body may be entrusted to another commercial entity or individual entrepreneur (manager) on the basis of an agreement.

An audit commission is formed to monitor the operations of a JSC.

Cooperative

Individuals and companies may engage in business to meet their needs by forming and participating in the operations of a cooperative. Cooperatives may engage in any business not prohibited by law.

A member of a cooperative must pay the membership fees and make contributions. Contributions consist of movable and/or immovable property as well as property rights of a monetary value.

A member is entitled to vote at general meetings, participate in the activity of the cooperative, receive dividends/liquidating distributions, and withdraw from the cooperative. To the extent cooperative assets are insufficient, members are liable for the cooperative jointly and severally by their assets (a subsidiary liability).

A limited presence is formed by registering a **representative and branch**:

A non-resident and resident entities may operate a representative office and/or a branch. A representative office is a separate division of an entity which represents and defends the interests of the former; a branch is a separate division of an entity that fulfills in whole or in part the functions of the entity, including representing it.

Neither a representative office nor a branch is a legal entity. Both operate based on the regulations approved by the entity.

Sole proprietors and business entities must be registered with the relevant state register resulting in the grant of a tax identification number and, under the same number, the state registration certificate for entities.

For registration, an applicant shall provide to the registrar, the tax service, the following documents:

- a signed and notarized application including a full name, place of residence, and details of an identification document of an individual founder and a name and shareholding and registration details of a corporate founder;
- charter and resolution approving incorporation, constituent documents, and management of a company;
- a document certifying payment of the state duty;
- a notarized copy of an extract from the state register (certificate on the state registration) and the charter of a corporate founder and copy of an identification document of an individual founder; and
- a copy of an identification of a representative, if any, filing the application.

To register a representative office and branch, additionally:

- a document appointing, and a power of attorney in the name of, the office manager are required.

Corporate registration is completed in two business days.

Locally established businesses are tax residents of Azerbaijan. Non-residents pay taxes here if they create (are deemed to have created) here a taxable PE (or upon receiving a locally sourced income).



RAISING CAPITAL

A company's capital is the totality of financial resources it has to run the business. Net assets are the difference between a company's assets (its holdings, including money, property, equipment, and other valuables) and its liabilities (debts and other financial obligations). A business' capital and net assets are similar except that capital is a greater sum to the extent of any non-current (long-term) liabilities.

Capital expresses the amount of funds a business can use to earn profits. Businesses raise capital to maintain and enhance operations. To raise capital, a business can:

- receive equity financing, through: (a) an initial public offering (IPO), *i.e.*, selling shares to the public *via* a stock exchange; (b) a private placement, *i.e.*, selling shares directly to predefined investors; (c) attracting venture capital, *i.e.*, external investors investing in promising businesses for equity ownership; and (d) attracting angel investors, *i.e.*, individuals providing capital to startups in exchange for equity or convertible debt;
- receive debt financing through: (a) attracting bank loans, *i.e.*, borrowing money from banks with an obligation to repay the principal plus interest; (b) issuing bonds, *i.e.*, issuing corporate instruments with fixed interest payments and repayment at maturity; (c) offering convertible debt: borrowing that can convert into equity under predetermined terms; and (d) attracting lines of credit, *i.e.*, accessing short-term funds from a bank up to a specified limit; and
- employ other techniques, such as: (a) attracting hybrid financing by (i) issuing preferred stock: shares offering fixed dividends and potential conversion into common stock, (ii) receiving mezzanine financing: a blend of debt and equity with higher interest and equity-like features; (b) retaining earnings: reinvesting company profits into operations instead of distributing them; (c) forming strategic alliances and joint ventures: partnering with other companies to share resources, risks, and rewards; and (d) selling assets: selling non-core assets to generate capital.

Equity

Equity financing refers to raising funds for a business or project by selling ownership shares to investors. This method shares risks but can dilute ownership and reduce control over the company. Investors share in profits and can influence decisions.

A share (stock) as defined in the Civil Code is an investment security that provides the holder with certain rights. The shareholder has the right to participate in the charter capital of a JSC that issued the share and management of the JSC and receive dividends, a part of the profit of the JSC, as well as a share of the property after its liquidation.

Shares can be combined or divided in accordance with a resolution of the general meeting of shareholders. The CBA determines the rules for the process of combining and dividing shares.

A placement of investment securities includes the acquisition of investment securities by their first owners. This may be done through a public offering or a private placement.

The issuer may place investment securities upon the state registration of their issuance. The subscription period for the securities is limited to three months. After the subscription is completed, the issuer must start the placement in five business days and the placement process may not last more than seven business days.

A public offering is made through a stock exchange. The Baku Stock Exchange (BSE) is the main stock exchange of Azerbaijan. Having been founded on 27 August 1997 as the Baku Stock Exchange JSC, it was reorganized on 25 October 1999 as the Baku Stock Exchange CJSC.

Qualifying and licensed investment companies may become members of the BSE. The BSE must ensure a level playing field for all members, monitor compliance with the rules, and prevent abuse. Among other things, the BSE must ensure that at least three of its members participate in a trading.

Debt

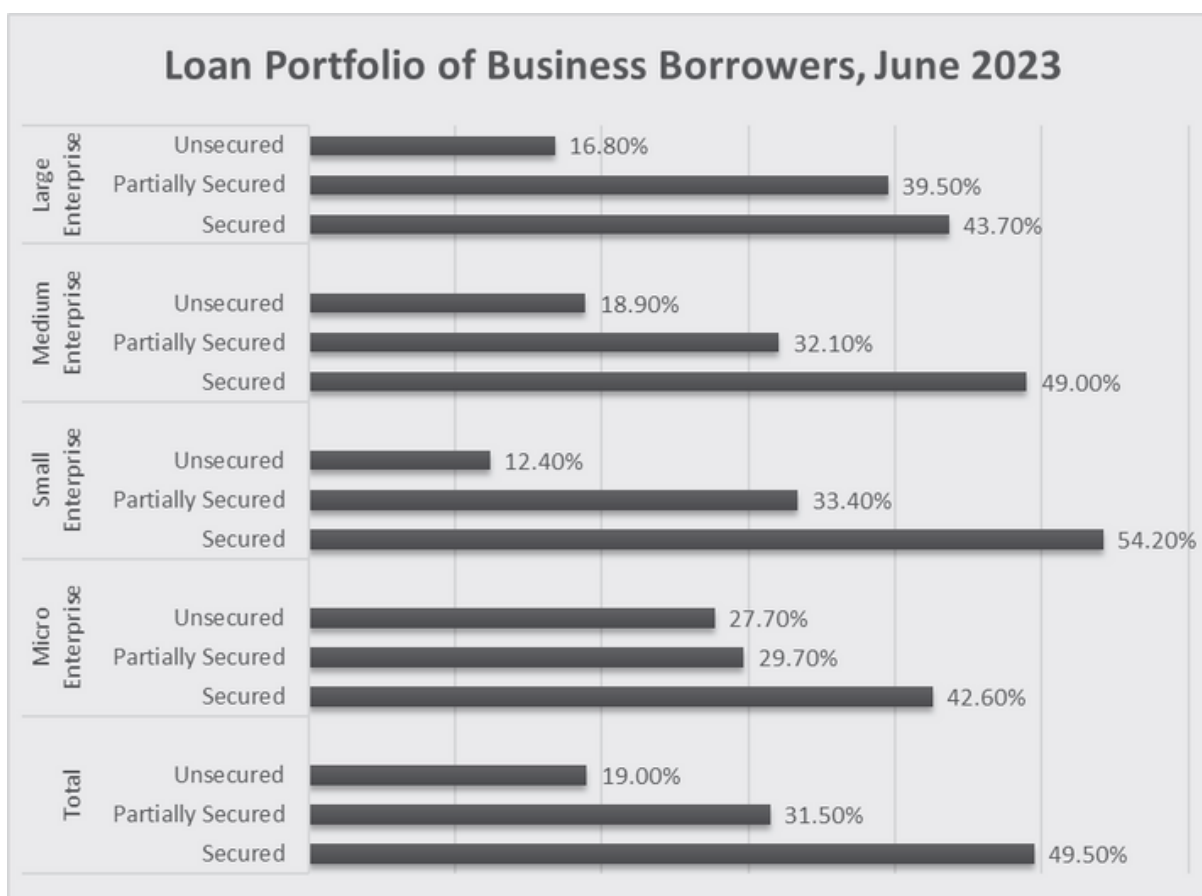
Debt financing involves borrowing money that must be repaid with interest, maintaining ownership. It offers control but comes with obligatory repayments. Unlike equity, there is no profit-sharing, however debt financing offers stability and predictable terms.

To receive debt financing, it is necessary to make a loan agreement whereby a lender undertakes to transfer money or other fungibles to the borrower. In return, the borrower repays the lender the amount of the debt and interest.

Lending money (as opposed to other fungibles) is called crediting. Persons engaged in crediting must comply with the provisions for granting loans in a professional manner. If the amount of the loan exceeds AZN3,000 or if the parties to the agreement are entities, the loan is made in writing.

It is also possible to attract borrowed funds in the form of a loan to increase capital. Loans can be provided by both banks and non-banking credit institutions.

Most business loans in Azerbaijan are secured, fully or partially:



Another way to raise debt capital is to issue corporate bonds which can be registered and bearer. Further, bonds can be short-term (with the maturity up to one year), medium-term (one to three years), and long-term (more than three years).

The following documents are submitted to register a bond issuance: (i) an application, (ii) a corporate resolution approving the issuance, (iii) certified copies of the certificate of state registration and constituent documents of the issuer, (iv) a prospectus of the bond issuance or information memorandum, (v) a document on payment of the state duty for registration of the prospectus, (vi) in the case of covered bonds, a document confirming covering, and (vii) audited financial statements.

The CBA registers the issue of bonds within ten business days of the date of submission of all required documents.

LICENSES AND AUTHORIZATIONS

Granting License/Authorization

A license is a document issued by a competent authority to run a licensed business line. An entrepreneur may apply for a special license (or) general license. The special license allows to perform solely one or several sub-types of activity, whereas the general license covers all sub-types of the defined activity.

For performance of certain actions, an entrepreneur shall obtain an authorization (permit) from a competent authority.

A license/authorization is required for those types of activity, which meet any of the following criteria:

- affecting national security;
- including use of limited natural resources;
- ability to negatively affect environment; and
- endangering lives, health, and property of an unlimited number of persons.

The Law, *On Licenses and Authorizations*, of 15 March 2016 lists licensed activities and sub-activities; the activities among others are:

1	Handling toxic industrial wastes
2	Private medical activity
3	Pharmaceutical activity
4	Handling precursors
5	Education
6	Telecommunication and postal services...
9	Transportation of hazardous cargo
10	Installing liquid and natural gas business facilities...
16	Fire protection activity
17	Engineering research for buildings and facilities requiring construction permit to be constructed
18	Construction and installation of buildings and facilities requiring construction permit to be constructed
19	Designing buildings and facilities requiring construction permit to be constructed issued in response to notifications...

Licenses granted in the Republic of Azerbaijan are effective in its whole territory; whereas those granted in the Naxcivan Autonomous Republic may be solely used there.

Matters related to recognition of licenses granted in Azerbaijan as well as foreign licenses are governed by international agreements which Azerbaijan is a party to (such as the *Agreement on Mutual Recognition of Licenses for Construction Issued by Licensing Authorities of Member States of CIS* approved by Law No. 805-IQ).

A holder of a license/authorization must use it personally and cannot assign it to third parties. All issued licenses/authorizations are recorded within the unified e-state register maintained by the Ministry of Economy.

A license/authorization is granted under a single-window system whereby application for, issuance, provision of duplicates, suspension, and termination of the license/authorization is handled by a single authority appointed in relation to that license/authorization. The authority liaises with those other authorities whose opinions are required to handle the license/authorization.

Prior to applying for a license/authorization, a foreign entity must register (typically, a branch) in Azerbaijan. A refusal to issue a license/authorization may be appealed to a court. Officers of an issuing authority are liable for breaching legal requirements and resulting damages sustained by the holder of a license (authorization).

The license/authorization contains the following information: (i) its date of issuance and registration number, (ii) name and address of the issuing authority, (iii) information about the licensee/holder of the authorization, (iv) term of validity of the license, (v) type of the licensed/authorized activity, and (vi) stamp and signature of the licensor/issuer of authorization. An addendum to a license/authorization is made in the case where the activity is performed in separately located facilities and/or the license/authorization is obtained in relation to listed types of activity.

Licenses are granted indefinitely, whereas, for authorizations, a term is set out by law (and, if there is no such term, also, indefinitely).

Suspension and Termination of License/Authorization

A license/authorization is suspended upon: (i) a request; (ii) failure to remedy a breach of terms of the license/authorization; and (iii) other cases specified by law.

Licenses/authorizations are suspended on the basis of an act adopted by the issuing authority presented to the holder within two business days of the adoption. The act shall contain grounds for the suspension as well as the note of "suspension". The suspension of one or several sub-activities does not cause suspension of other sub-activities.

A license/authorization suspended upon a request is restored by an act of the issuing authority on the basis of the holder's application and, in the other cases, on the basis of a written information on remedy of defects provided by the holder of the license/authorization.

A license (authorization) is terminated upon: (i) a request; (ii) expiration of term; (iii) termination of the holder; (iv) the holder's going out of business; (v) false information revealed in the documents filed for the application; (vi) removal of an activity from the list of licensed/authorized; (vi) court order; and (vi) other cases specified by laws.

Professional Participants of Securities Market

Investment companies, including foreign investment companies acting through their divisions in Azerbaijan, stock exchanges, depositories of investment funds, and clearing organizations operate on the basis of respective licenses issued by the CBA. A license is issued in two steps consisting of preliminary and final reviews.

The CBA may reject an application in the following cases upon the preliminary review:

- documents are incomplete, inconsistent, or non-conforming;

- thresholds in relation to capital are not met; and
- a failure to meet any of these: (a) good citizenship of individual shareholder(s); (b) corporate shareholders complying with financial stability requirements; (c) a person not controlling more than one licensed business line of an investment company; (d) a person not holding more than 20 percent of shares of a stock exchange; (e) a person not being from or controlled from out of high-risk zones; (f) a person not being from sanctioned jurisdictions; (g) meeting professional criteria applicable to executives of a licensed person; (h) no risks of: (i) a financial instability and solvency, (ii) failure to ensure normal operations, and (iii) breaching rights of investors; and (i) internal policies of a stock exchange and clearing organization conforming with legal requirements.

A license of an investment company shall contain information of investment services (transactions), such as, acceptance and execution of clients' orders in relation to securities and financial instruments, asset management, providing investment related advice, placement of securities and underwriting, carrying out transactions with securities, and actions as a member of the central depository and stock exchange, licensed. A license cannot be granted to an investment company solely to supply supplementary services (transactions), such as, (i) managing securities account of a customer, including transactions with encumbrances, (ii) issuing loans to investors to make transactions with securities or financial instruments, (iii) investment research or financial analysis in relation to securities or derivative financial instruments, (iv) security manager of guaranteed bonds, and (v) foreign currency exchange for key investment services (transactions).

A license issued to a stock exchange shall specify the types of markets, *i.e.*, market of sovereign-issued securities, corporate securities market, and financial instruments market.

Banking

The CBA has the exclusive competence to issue and terminate banking licenses, as well as to authorize and deauthorize establishment of divisions of banks. A review of applications is fulfilled in two steps: (i) an initial filing for license by bank's founders and the review of the application; and (ii) a final filing after the state registration of the bank and the review of the application.

While reviewing the application, the issuing authority may obtain information of the financial standing, professional activity, and criminal conviction of main shareholders (in the case where the main shareholder is a legal entity, of the head of its executive body) and administrators of the bank from financial, tax, and law enforcement bodies. An applicant shall pay the state duty for obtaining license.

The CBA makes the information of its resolving on termination of bank licenses and local divisions of foreign banks public.



DOCUMENT MANAGEMENT AND ACCOUNTING

General

In Azerbaijan, document management, specifically, recordkeeping, is regulated for budget institutions, state organizations, and entities the state controls. Additionally, rules exist for document handling at courts and notaries of the Republic.

Instruction of Recordkeeping in State Organizations, State-Owned Entities and Entities Whose Controlling Shareholding Belongs to State, and Budget Institutions is approved by Decree No. 935 of 27 September 2003 of the President of the Republic.

The Instruction is governing recordkeeping as office work including the preparation, registration, movement, execution, accounting, and submission of documents within the listed institutions. Recordkeeping is an activity of organizing document handling and is carried out in the state language of the Republic of Azerbaijan.

According to the Instruction, a document must be formalized in order to give it a legal force. Formalization is carried out by signing, confirming, registering, and stamping the document.

A signature includes the title of the position of the person signing the document and his/her personal signature and name and surname. Unless the document is prepared on an institution's letterhead, it must be stamped. A document prepared by two and more institutions cannot be on a letterhead.

Computer-generated (typewritten) documents are prepared according to interstate standard 6.38-90. The text (except for financial, statistical, and other tables) must be typewritten according to interstate standard 9327-60 on A4 or A5 page size using Arial 12 font with one or one and a half, or, for A5 printouts, two line spacing. The same standards apply to document generation by courts and notaries.

Institutions may conduct clerical work in electronic form as well subject to the following:

- an electronic document must meet the requirements in the Law, *On Electronic Signature and Electronic Document* (see further in this Chapter); and
- the document must be approved by affixing an electronic or enhanced electronic signature.

Electronic Document Management

Electronic document management involves the creation, processing, transmission, reception, storage, and destruction of electronic documents with verification, integrity, reliability, and, if necessary, confirmation of receipt.

Azerbaijani law does not restrict electronic document exchange of businesses, other organizations, or individuals. Private initiatives have implemented electronic document exchange, while larger-scale implementations require public acts such as e-government. In 2010, the *Electronic Azerbaijan State Program for 2010-12* was approved and largely successfully implemented; this was followed by the approval in 2016 of the *State Program for Years 2016-20 to Implement National Strategy for Developing Information Society*.

The exchange of electronic documents is a process of creating an electronic document, entering electronic signatures, detecting the authenticity of an electronic document, registering incoming and outgoing electronic documents, storing an electronic document, in short, all types of movement of an electronic document. E-document exchange refers to:

- creation of e-document;
- addition of strengthened e-signature and requisites;
- sending e-documents;
- the process of checking the authenticity of the e-document;

- confirmation process of receiving an e–document;
- registration of incoming e–document
- registration of the sent e–document; and
- e–document storage.

Law No. 602-IIQ of 9 March 2004, *On Electronic Signature and Electronic Document*, recognizes electronic signatures as well as enhanced electronic signatures. The recognition has been tested and reconfirmed in court practice: under the Decision of the Plenum of the Constitutional Court of 12 August 2020, the requirement of ‘proper signing’ is met by signing ‘in person or affixing a facsimile (developed by mechanical or other means of copying) of a signature, an electronic signature, or another analogue of a personal signature’. While all types of e–signature (including those not specifically endorsed by regulations) should be recognized in Azerbaijan, depending on counterparty (such as an authority receiving statutory mandatory reports), specific types of signatures can be preferred.

In Azerbaijan, there are a number of unique e–signatures, such as that of SIMA Token (<https://token.sima.az/en>) and Asan Imza (<https://asanimza.az/en/>), both enhanced. E–signatures of businesses are issued to their executives, which requires a local identification document of the executive (where the executive is not a citizen of Azerbaijan, a practical requirement to reside here arises).

Archiving

Documents can be given to a public or private archive for storage. To have documents accepted by the public archive, the National Archive Fund, and receive state protection, an agreement must be made with the center that regulates administrative documents under the Department of National Archives.

An institution may also transfer the documents to private archives for storage. In addition, private archives provide the service of destruction of expired documents.

If an enterprise is terminated without any legal succession, the documents of the enterprise must be handed over to an office of the National Archives. The submission is accompanied by the proof of an entity’s termination issued by the corporate registrar.

Accounting

Accounting is governed by Law, *On Accounting*, of 29 June 2004. The Law replaced the 1995 Law, *On Accounting*, which contained a detailed regulation of bookkeeping, in favor of referring to more detailed standards promulgated by specialist institutions. With a view to further harmonize accounting and financial reporting in Azerbaijan with international standards, in June 2018, the 2004 Law adopted international standards of reporting.

The 2018 amendments substituted the International Standards of Financial Reporting (IFRS), IFRS for SMEs (small and medium enterprises), and International Public Sector Accounting Standards (IPSAS) for the national accounting standards. Subjects of micro and small entrepreneurship can elect between the IFRS for SMEs and rules of accounting at micro and small enterprises promulgated by the Ministry of Finance.

Entities of public importance must report under IFRS. Any such entities with two and more subsidiaries must also prepare consolidated financial reports under IFRS except where all owners (voting and non–voting alike) of a subsidiary entity unanimously vote in favor of not preparing consolidated report, securities of the entity are not publicly traded, securities of the entity are not issued into an open market, and a parent company of the entity publishes consolidated IFRS reports.

Entities of public importance are credit institutions, insurers, reinsurers, investment funds and their managers, private social funds, persons licensed to act at securities market, listed entities, and businesses reporting excess over the following thresholds for the respective criteria: (i) an annual revenue of AZN200,000,000, (ii) average number of employees in a year 1,500, and (iii) final balance sheet amount of AZN500,000,000. Other than these, subjects of financial reporting are divided into micro, small, medium, and large businesses (see Chapter, Establishing Business, of this publication).

In Azerbaijan, a reporting (fiscal) year for all businesses matches a calendar year, from 1 January through 31 December. The first reporting year of a new business established on or after 1 October is through 31 December of the next calendar year.

PERSONAL DATA PRIVACY

Personal data is any information that can directly or indirectly identify a person. A lack of control over collection, processing, and use of personal information may lead to a breach of privacy and confidence, including potential fraud. To address these risks, legislators in many jurisdictions have adopted the rules to handle personal data.

The legislation of Azerbaijan is no exception and includes a regulation by the 2010 Law, *On Personal Data*. The Law addresses collection, processing, and protection of personal data, its cross-border transfer, as well as defines the rights and obligations of persons, including the Republic, *vis-à-vis* personal data privacy.

The subject of personal data is an individual whose personal data is collected, processed, or protected and who has been or is being identified. Personal data is protected from the moment it is collected. Based on the type of access to it or of acquiring it, personal data is divided into publicly available and confidential.

Information, the access to or processing, transmission, or use of which is not restricted and intended for public use, is considered publicly available information. A name, surname, and patronymic of an individual are permanent publicly available personal data.

Confidential personal data must be protected by the owner, operator and users who have the right to access this data at a level required by law. Confidential personal data may be provided to third parties only with the consent of the subject of the data.

There are also the special and biometric categories of personal data. Information about the race or nationality of an individual, family life, religious beliefs, and health status belongs to special personal information. This type of personal data also can be classified as publicly available or confidential.

Biometric personal data are physiological or biological characteristics used to identify an individual. It includes biological characteristics of a human body allowing it to be uniquely identified, such as fingerprints and palms, facial features, corneal and retinal analysis results, the results of the analysis of deoxyribonucleic acid (DNA), as well as other biometric data. Such data can also be photos, blood type, and genetic information.

An owner of personal data is a state body or local self-government body, an entity or individual fully exercising the rights to possess, use, and dispose of the information system or a set of personal data and determining the purpose of processing personal data. A personal data operator is the owner of personal data collecting, processing, and protecting personal data or a state body or local government body, an entity, or individual, that the owner entrusts these functions to. A user of personal data is a state or local self-governing body, entity or individual who has been granted the right to use personal data in a manner and extent determined by the owner only for the purpose of obtaining the necessary information.

Collection and processing of personal data is allowed only based on consent given by the subject in the form of an electronic document, including an enhanced electronic signature, or based on the information provided in writing. At the request of the subject, the owner or operator collecting and processing publicly available personal data must prove that such data belongs to the category of publicly available personal data.

The owner or operator has the right to receive from the subject only those personal data necessary to achieve the purposes of processing. The transfer of personal data by third parties to the owner or operator, as well as by them to any third party, is allowed only with the written consent of the subject of the data.



A cross-border transfer of personal data is possible unless: (i) the transfer poses a threat to the national security or (ii) law of the country where personal data is transferred to does not legally protect the data to the extent it is protected in Azerbaijan.

The President of the Republic of Azerbaijan approves the rules for maintaining the state register of personal data information systems. The Cabinet of Ministers is responsible for determining, among others, the rules: (i) of the state registration of personal data information systems and cancellation of such registration and (ii) for entering and using a personal identification number in personal data information systems (a unique code assigned to a person whose personal data is entered into an information system of personal data allowing to identify the person).

The Ministry of Economy through the Tax Service is responsible for the transfer of information of financial transactions of nationals of countries with agreements on the exchange of financial and tax information with Azerbaijan to the related authorities of those countries.

TAXES

The tax status of a person is of how and in what amounts a person will be required to pay taxes and of the tax system taxing the person. This may include the categories of residence, tax exemptions and obligations, and tax rates.

One of the criteria for obtaining a residence status of a person in the Republic of Azerbaijan is a presence in the territory of it for at least 182 days cumulatively during a calendar year.

The concept of a PE is defined for businesses, pursuant to which a person carrying on business in the territory of Azerbaijan is obliged to pay taxes established by the Tax Code. A PE of a non-resident entity or natural person is a place where such person, directly or through an authorized person, is carrying out all or part of business in Azerbaijan for at least 90 consecutive days in any 12-month period – this definition can be amended in relation to a resident of a contracting state by an applicable double taxation avoidance treaty of the Republic of Azerbaijan.

The portion of tax revenues in Azerbaijan’s gross domestic product remains low at 7.4 percent, but comparable to the same rate of other resource-rich countries.

There are specific tax regimes that the government has given in specific sectors of economy, such as oil and gas production and transportation, in the early years of its regained independence and has chosen to retain for investors, largely foreign. An expansion to this regime is the regime of oil and gas export operations to promote the use of know-how and infrastructure accumulated in the sector.

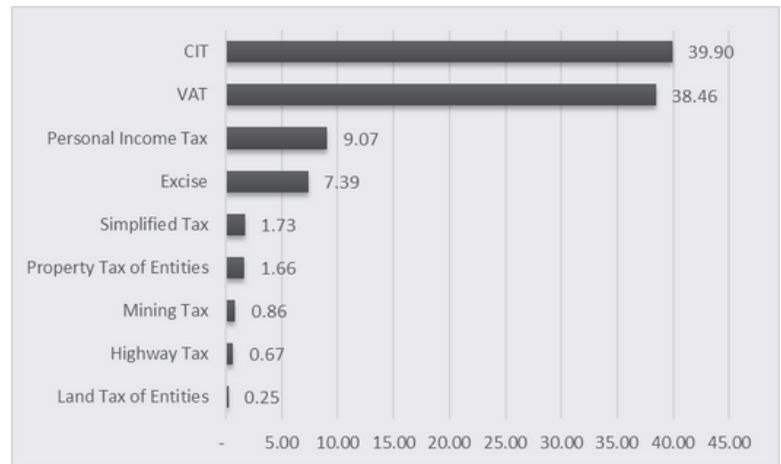
The Tax Code of Azerbaijan classifies taxes into:

– the state taxes – taxes paid into the state budget of Azerbaijan:

- personal income tax;
- tax on the profit of legal entities (except for municipal-owned enterprises and organizations) or the corporate income tax (CIT);
- VAT;
- excise tax;

- property tax of entities;
- land tax of entities;
- highway tax;
- mining tax; and
- simplified tax.

The chart below shows ratio of different taxes in relation to all taxes that will be levied in 2023 according the 2023 state budget:



– taxes of the Naxcivan Autonomous Republic:

- the Autonomous Republic taxes include the state taxes levied in the Naxcivan Autonomous Republic listed above (except the highway tax).

– local taxes – collected by municipalities and remitted into their budgets:

- the land tax of individuals; and
- the property tax of individuals.

The key and most common taxes that can be encountered by a business are the personal income tax, VAT, and CIT. The rates of these taxes are the following:

- personal income tax rate is 0 percent, 14 percent, or 25 percent;
- the VAT rate is 18 percent (or 0 percent for qualifying supplies, such as exports); and
- the CIT tax rate is 20 percent.

Individual residents in Azerbaijan are subject to the tax on personal income on their worldwide income. On the other hand, only income obtained from sources within Azerbaijan is taxed for non-residents. “Sources” refers to where an income is obtained from and are exemplified (although not exhaustively) in the Tax Code.

The tax on personal income is progressive with the rates ranging from effectively 0 percent, 14 percent, and 25 percent depending on the sector a recipient is engaged in and whether the earnings reach a threshold. In reality, the tax is not a progressive tax in a true sense. For instance, the personal income tax rate changes only upon an income exceeding AZN2,500, and only if a recipient works in the oil and gas or public sector and until 1 January 2026.

Cabinet Resolution No. 56 of 2019 approves the criteria for operations in **oil and gas (and of non-public)** for tax purposes; operations of the following qualify for oil and gas:

- SOCAR and enterprises in its structure, as well as contractors and operating companies under production sharing agreements (PSAs), the main pipeline and other similar agreements, regardless of their exact operations; and
- foreign and local subcontractors of the above.

All local entities, except for public entities created for the Republic, budget institutions and other state bodies and entities financed from the state budget and other funds belonging to the state, as well as entities at least 51 percent owned directly or indirectly by the Republic, and sole proprietors qualify for non-public.

Unless an exemption applies, the tax is levied on dividends, interest, and royalties. For instance, dividends paid by a technology park resident engaged in system integration, software training and development outside the park are exempt from the withholding tax (at ten percent) for a ten-year period starting from the year of receipt of the registration certificate. A **technology park** is an area that provides infrastructure and resources for technology-based companies, such as laboratories, research facilities, and office space.

Certain other income and expenses, such as charitable contributions and medical expenses, can be exempt and deductible, respectively.

The CIT rate in Azerbaijan is 20 percent. The payers of CIT are required to file annual tax returns, and the tax year is the calendar year. The tax system also offers tax exemptions and discounts for specific businesses and sectors, such as agriculture, tourism, information technology, and certain others.

As with the personal income tax, the CIT can be levied depending on the source of income.

Tax exemptions from the income tax and CIT can be exemplified by the following:

- 50 percent of profits/income of a commercial entity and sole proprietor holding the investment incentive certificate for seven years from the date of receipt of the certificate (issued to businesses engaged in qualifying investing);
- entire income received by active individual consumers from electricity of up to 150 kW, inclusive, capacity generated through renewable energy sources and supplied to the grid;
- income/profits from innovative operations of micro and small-size startups (sole proprietorships and companies alike) for three years from the date of receiving the startup certificate (issued for qualifying innovations); and
- income/profits received by an SME cluster participant (sole proprietorship and company alike operating in the cluster) from supplies to the SME cluster enterprise (a qualifying entity supporting development of SMEs) for seven years.

The VAT (which is, worldwide, a relatively recent tax) is levied on the supply of goods and services within Azerbaijan, as well as on imports. The VAT rate in Azerbaijan is 18 percent (or, for qualifying supplies, 0 percent). The VAT rules provide for exemptions and reductions for certain goods and services, such as basic foodstuffs, medical equipment, and educational services.

Except for cash payments into a bank account of a supplier, VAT must be paid by wire transfers to the VAT deposit account maintained with the Azerbaijani State Treasury Agency. The VAT deposit account is an account for accumulation of output VAT (collected by a business) and remittance of the input VAT as well as the VAT due to the Treasury. This account has sub-accounts (called “sub-register accounts”) for each VAT payer, in which their VAT balance is maintained.

As in most other countries, Azerbaijan has the excise tax. The excise taxes certain listed goods, such as tobacco, alcohol, and gasoline. For each of these products as well as for other commodities such as vehicles, perfumes, and jewelry, Azerbaijan has a distinct excise rate.

Other taxes in Azerbaijan include the property tax, land tax, and social security contributions. The market value of the property or land is used to assess the property and land taxes. In relation to social insurance (which is governed by an act separate from the Tax Code), both employees and employers are required to pay the social security payments based on the amount of a wage and payroll at the (most common) rate of 25 percent (split, depending on a wage amount, into three to ten percent payable by an employee and 22 to 15 percent payable by an employer).

The Republic has double taxation avoidance treaties (DTAs) with over 50 nations including the UK, France, Germany, Turkiye, and Italy. Other nations may unilaterally implement former Soviet Union treaties *vis-à-vis* Azerbaijan.’

The following table summarizes Azerbaijani DTAs:

	Jurisdiction	Dividends (highest rate)	Interest (highest rate)	Royalties (highest rate)
1	Austria	5/10/15	10	5/10
2	Belarus	15	10	10
3	Belgium	5/10/15	10	5/10
4	Bosnia and Herzegovina	10	10	10
5	Bulgaria	8	7	5/10
6	Canada	10/15	10	5/10
7	People’s Republic of China	10	10	10
8	Croatia	5/10	10	10
9	Czech Republic	8	10	10
10	Denmark	5/15	8	5/10

	Jurisdiction	Dividends (highest rate)	Interests (highest rate)	Royalties (highest rate)
11	Estonia	5/10	10	10
12	Finland	5/10	10	5/10
13	France	10	10	5/10
14	Georgia	10	10	10
15	Germany	5/15	10	10/5
16	Greece	8	8	8
17	Hungary	8	8	8
18	Jordan	8	8	10
19	Iran	10	10	10
20	Israel	15	10	5/10
21	Italy	10	10	5/10
22	Japan	7	7	7
23	Kazakhstan	10	10	10
24	Korea (Rep.)	7	10	5/10
25	Kuwait	5/10	7	10
26	Latvia	5/10	10	5/10
27	Lithuania	5/10	10	10
28	Luxembourg	5/10	10	5/10
29	Republic of Northern Macedonia	8	8	8
30	Malta	8	8	8
31	Moldova	8/15	10	10
32	Montenegro	10	10	10
33	Morocco (not in force)	10	10	10
34	Netherlands	5/10	10	5/10
35	Norway	10/15	10	10
36	Pakistan	10	10	10
37	Poland	10	10	10
38	Qatar	7	7	5
39	Romania	5/10	8	10
40	Russia	10	10	10
41	San Marino	5/10	10	5/10

	Jurisdiction	Dividends (highest rate)	Interests (highest rate)	Royalties (highest rate)
42	Saudi Arabia	5/7	7	10
43	Serbia	10	10	10
44	Slovakia	Not available	Not available	Not available
45	Slovenia	8	8	5/10
46	Spain	5/10	8	5/10
47	Sweden	5/15	8	5/10
48	Switzerland	5/15	10	5/10
49	Tajikistan	10	10	10
50	Turkiye	12	10	10
51	Turkmenistan	10	10	10
52	Ukraine	10	10	10
53	United Arab Emirates	5/10	7	5/10
54	United Kingdom of Great Britain and Northern Ireland	10/15	10	5/10
55	Uzbekistan	10	10	10
56	Vietnam	10	10	10

CUSTOMS

Customs facilitate international trade and investment by handling the flow of goods across borders. In Azerbaijan, customs have a significant impact on overall economy and, otherwise, since regaining independence in 1991, customs laws of Azerbaijan have been codified twice. Customs rules and procedures are set out in international agreements of the Republic, *Customs Code*, *Law of Customs Tariffs*, and subordinate regulations, and are enforced by the State Customs Committee.

Upon importing and exporting goods into and from Azerbaijan, documents that confirm the origin of goods, their value, classification, volume, and other specifications are submitted to customs. These documents include, among others, agreements (purchase orders), packing lists, and commercial invoices. Once goods are declared, customs may inspect the goods by among others spot checks to confirm compliance with the declared values.

Importers (except for non-commercial individual importers and where goods are transported by vehicles crossing waterways and airspace) must submit upon importation (and, in listed cases, exportation) and before arrival of the goods a brief import declaration (electronic). A failure to submit the declaration is an administrative offense leading to a fine of AZN1,000 on officers and AZN1,500 on entities.

Goods are imported according to a selected customs regime, a generic or special procedure determining the status of goods and vehicles moved across the customs border. Generic procedures include: (i) exportation, (ii) reexport, (iii) temporary export, (iv) release into free turnover, and (v) reimport; special procedures include: (vi) transit (domestic and international), (vii) storage (temporary and customs warehouse), (viii) free zone, (ix) special use (temporary importation and end use), and (x) processing (inward and outward).

Customs fees are assessed for clearance and other services (such as weighing). If goods are released into a free turnover and in certain other regimes and unless an exemption applies,

the customs duty, the VAT (assessed on top of the customs value including the customs duty), excise, and road taxes must be paid. The import duty applies mostly, *ad valorem*, at the rates of 0, 0.5, 1, 3, 5, 10, and 15 percent. The excise and road taxes are applied in accordance with the Tax Code.

Export duties may apply at a fixed amount (or a certain rate) depending on the goods, their quantity and unit of measurement. Additionally, assessments of difference between domestic and export prices of goods with a regulated price apply.

Azerbaijan is a member of the World Customs Organization (WCO) and participates in a number of international organizations and initiatives promoting foreign trade. The country holds an observer status of the World Trade Organization (WTO) since 1997 and began negotiations with WTO members on accession in 2004.

Azerbaijan acceded to the *Customs Convention on the Temporary Importation of Commercial Road Vehicles* (Geneva, 18 May 1956) on 8 May 2000 and the *Customs Convention on Containers* (Geneva, 2 December 1972) on 17 January 2005. These accords aim to increase trade facilitation and economic connections by standardizing container usage and facilitating temporary importation of commercial road vehicles.

As a member of the CIS, Azerbaijan is a party to multilateral agreements within it. In addition, Azerbaijan has bilateral free trade agreements with other countries such as Russia, Moldova, Ukraine, Georgia, Turkmenistan, Uzbekistan, Kazakhstan, Kyrgyzstan, Belarus, and Tajikistan. With Turkiye, Azerbaijan has a preferential trade agreement. As discussed in Sections, Foreign Investment and Use of Third Jurisdictions, Azerbaijan participates in the *Agreement on Establishment of Free Trade Zone among GUUAM Member States*, a practical implementation of which is pending.

As reported by the Customs Committee, imports in Azerbaijan have declined during the pandemic of 2020; however, overall imports have since rebounded:



Over the past decade, Azerbaijan has implemented a series of reforms aimed at modernizing and streamlining its customs procedures including an introduction of a risk-based approach to customs inspections, adoption of electronic customs declarations, and integration of customs procedures with other government agencies. A ‘green corridor/channel’ gating system (aiming to create more favorable conditions for law-abiding traders) and other gating systems have been introduced. As of the date of this publication, there are 278 exporters and 495 importers utilizing the green channel.

Azerbaijan has deployed automated customs clearance systems at its major border crossings. The Customs Committee has set up a database at https://c2b.customs.gov.az/Tnved_public.aspx where customs tariffs can be verified. The chart below shows progression of collected custom revenues (as reported by annual budget administration approval acts) in the past ten years:



EMPLOYMENT AND LABOR

General

Azerbaijan's employment and labor laws consist primarily of the Labor Code effective 2 July 1999 as amended. While the Labor Code has traditionally been viewed pro-employee, this has been changing.

The Labor Code regulation governs among others:

- rights and obligations of employees and employers and, separately, rights of foreigners and stateless persons, including employment of foreign specialists;
- employment conditions, working hours, and vacation rights;
- rights of privileged employees;
- right to form trade unions;
- standards of employment safety, work under hazardous conditions, and the state, public, and trade union control of compliance with them;
- collective bargaining and consideration of collective claims;
- rules of calling and organizing industrial actions, including a one-man strike;
- individual labor disputes and the right to take claims to courts; and
- compensation of employees and employers for damages.

Employment

Employment arises upon the registration by an employer through an enhanced electronic signature of an employment agreement notification with the electronic information system and notification of the employer of the same. Similarly, amendments and terminations of employment take effect as of the relevant registrations and feedback in the same manner.

Employment of the listed public employees and those listed upon electronic incorporation of local limited liability companies arises upon an employment agreement having been made in writing and the incorporation having been completed, respectively.

Employment, its terms, as well as its termination are a matter of agreement between an employer and employee. In listed cases, an employer may exercise the following rights:

- change terms and conditions of employment, terminate employment, make staff reductions and liquidations, introduce structural revisions; and
- hold employees liable in case of violation by them of terms of employment, including an infliction of damages.

Employment terminates upon expiration of an employment agreement. Additionally, the Labor Code specifies grounds for terminating employment by an employer and employee.

As such, employment can be terminated:

- upon an initiative of a party;
- revising conditions of employment; and
- change of ownership of an employer.

An employer may terminate employment upon, among others:

- its own termination/winding up;
- staff reduction;
- establishing that employee is not fit for the position;
- an employee's failing to fulfil his/her employment functions and obligations; and
- an employee's failing to prove him/herself during the probationary period.

In Azerbaijan, daily working hours of employees may not exceed eight, which is also guaranteed by the Constitution of the Republic. Hours during a week, whether a five- or six-day week, cannot exceed 40.

The following public holidays are days-off: the New Year's Day (1 and 2 January), Women's Day (8 March), Day of Victory over Fascism (9 May), Independence Day (28 May), Day of National Salvation (15 June), Day of the Armed Forces (26 June), Victory Day (8 November), National Flag Day (9 November), Day of Solidarity of World Azerbaijanis (31 December), Novruz Holiday (five days), Eid al-Adha (two days), and Ramadan holiday (two days). Employees may be employed on holidays that are not considered working days only in exceptional cases.

The Labor Code does not apply to foreigners who have concluded an employment agreement with an entity of another country and perform their employment at an enterprise (branch and representative office) operating in the Republic of Azerbaijan. There can be practical issues, especially as far as labor migration is concerned, arising from employment based on a non-Azerbaijani law.

Unemployment is insured at 0.5 percent of a monthly salary amount payable by each employer and employee.

Labor

Migration

Azerbaijan is a party to the *International Convention on Protection of Rights of All Migrant Workers and Members of Their Families* and has signed bilateral and multilateral agreements for labor migration with a number of primarily neighboring countries such as Kazakhstan, Kyrgyzstan, Moldova, Ukraine, Belarus, Turkiye, and Russia (acting through the Federal Migration Service).

Migration policy is enforced by the State Migration Service and the Ministries of Labor and Social Protection, Public Health, Foreign Affairs, and Internal Affairs, the State Border and Security Services, and the State Committee for Refugees. The policy is aimed to be implemented through the “single window” principle.

Under the Migration Code, foreigners and stateless persons wishing to temporarily reside and work in the Republic of Azerbaijan, along with a temporary residence permit, must have a work permit. A work permit is a document allowing a foreigner and a stateless person to engage in paid labor in Azerbaijan. Employers must employ their non-Azerbaijani employees by making with them employment agreements for the period of validity of respective work permits.

The permit is not required among other cases:

- where a non-Azerbaijani holds a permit to permanently reside here;
- for those employed in diplomatic missions and consulates, international organizations;
- for heads of organizations and their deputies established on the basis of international treaties;
- for media employees accredited in Azerbaijan;
- for lecturers invited to lecture at universities;

- for artists and coaches and athletes invited to sports clubs;
- for heads and deputies of branches and representative offices of foreign entities in Azerbaijan;
- managers and, for residents of technological parks, deputies and an at least 51 percent founder (where employed by the entity) of an entity founded in Azerbaijan by at least one foreign individual or entity;
- a non-Azerbaijani is engaging in entrepreneurial activities in Azerbaijan;
- for a spouse of a citizen of Azerbaijan; and
- for persons holding political asylum or refugee status.

The work permit is issued for one year.

Work permits are issued based on quotas and, where quotas are not implemented, regardless of and beyond them. Where quotas apply, such are typically issued in the range of 10,000 annually. For the year of 2022, the total number of quotas was 9,000 and, for 2023, the issued quotas as of June are 6,740 with 3,527 taken.

In cases of violation of the procedure for employing foreigners and stateless persons, officials are subject to a fine in the amount of AZN3,000 to 5,000 and legal entities from AZN30,000 to 35,000.

A work visa is required of foreign citizens and stateless persons who intend to engage in paid labor for state bodies, entities, and individuals acting as an employer. In a work visa, the period of stay in the country is up to 90 days.

A temporary residence permit is required of foreigners and stateless persons wishing to stay in Azerbaijan for a continuous period of more than 90 calendar days. Foreign citizens and stateless persons are granted a temporary residence permit where *inter alia*:

- they have invested at least AZN500,000 in the country's economy;
- they own real estate in the territory of the Republic of Azerbaijan worth at least AZN100,000, have cash for at least the same amount term-deposited with banks here, or hold investment securities for at least the same amount issued by the Republic and enterprises it majority owns;
- they are highly qualified specialists in the listed areas;
- they hold a position of the head or deputy head of a branch or representative office of a foreign entity;

- they hold a position of head of a foreign-invested local enterprise with an equity capital exceeding a threshold yet to be determined or their majority shareholders; and
- they are engaged in entrepreneurial activities in Azerbaijan and made employment agreements with five individuals at least on a full-time basis or ten on a part-time basis and 80 percent of the employees are citizens of Azerbaijan.

Trade Unions

Trade unions are independent public non-political organizations that voluntarily unite workers, pensioners, and students to protect their labor, social and economic rights. Trade unions are governed by Law No. 792, *On Trade Unions*, of 24 February 1994, as amended, and operate on the basis of their charters. Under the Law, at least seven people have the right to create a trade union and, having united in the relevant trade union, pass its charter.

Trade unions can have local, territorial, or republican status. A trade union association, established by merging more than half of trade unions of the republican status, has the status of an all-republican trade union. Trade unions may establish councils, federations, and confederations of trade unions based on a sector, territory, and other indicia.

Trade union associations monitor compliance at a workplace with the requirements of compensation depending on the standards of living, including timely increase due to rising prices of wages, pensions, scholarships, and benefits, and take part in the preparation of plans and programs for social and economic protection of employees.

The Confederation of Trade Unions of Azerbaijan was established in 1993 and unites numerous trade union organizations. The Confederation is a public non-political organization uniting 27 sectoral trade unions and an inter-sectoral association of trade unions of the Naxcivan Autonomous Republic. The number of trade union members in these industries exceeds 1.2 million people.

On 7 March 2023, the Cabinet of Ministers approved a tripartite *Collective Bargaining Agreement (General Collective Agreement) among the Cabinet of Ministers, the Confederation, and the National Confederation of Organizations of Entrepreneurs (Employers) for 2023-25*. Other collective bargaining agreements include the *Collective Agreement between the Republic (represented by the Ministry of Education) and the Republican Committee of Free Trade Unions of Azerbaijani Education Employees for the years 2021-23*.



PROPERTY

In Azerbaijan, property encompasses tangible, including money and paper securities, and intangible assets, such as rights (see, e.g., Chapter, IP, below).

Tangible assets can be immovable (real estate) and movable (personal estate). Land, subsoil plots, separate water bodies, forests, perennial plantings, buildings, facilities, and other objects inseparably attached to land are real estate. All things that cannot be attributed to real estate are considered personal estate.

Tangible assets can further be divisible and indivisible, fungible and nonfungible, and consumable and non-consumable. Circulation of most assets is free, however, there are assets that cannot be placed into a free turnover or can be placed under limitations.

Property ownership in Azerbaijan can be state, municipal, and private. Under a residual ownership principle, all assets that are not private or municipal are considered state-owned.

Property is an object of *in rem* rights. Such rights include ownership (consisting of use, possession, and disposition), leasehold, hypothec, and other encumbrances considered accessory rights *in rem*.

Foreigners and stateless persons and foreign legal entities have a right to acquire all types of personal estate, except land (however, there is no limitation for a fully foreign owned entity incorporated and existing in Azerbaijan to hold land as freehold). Foreigners, stateless persons, and foreign entities have the right to participate as foreign investors in privatizations of state property.

It is possible to transact with property in Azerbaijan in person and through an agent. When transacting through an agent, the

agent must have a power of attorney in his/her/its name from the principal. Engaging a real estate broker to transact with property is not mandatory.

Transactions with immovables as well as with movables subject to registration must be certified by a notary. Transactions with other movables are not notarized (unless parties choose otherwise). Documents and information required upon notarization of transactions with real estate are transferred to the state register of real estate electronically by notaries.

Ownership and other rights in immovable property, limitation, formation, transfer, and termination of these rights must be state registered. Real estate leases and uses with a term over eleven months must be registered. Encumbrance of personal estate is registered in the state register of encumbrances of movable property. The register maintains information to record an occurrence of encumbrance, changes into it, including termination, as well as objections to encumbering movable property.

Real estate is subject to the property tax with rates varying depending on the location of it; land ownership and, in some cases, use are subject to the land tax. Income from disposition of real property can be taxed.

Ownership of land transferred to foreign entities and individuals as a result of inheritance, donation, and hypothec must be divested in one year. Foreign citizens, stateless persons, as well as foreign legal entities have the right to transfer ownership to other persons (for example, under a gift agreement).



CURRENCY REGULATION

General

The national currency of Azerbaijan is the Manat (AZN, ₼); it is forbidden to use any monetary units other than Manat as a means of payment within the territory of Azerbaijan. The key principles of the foreign exchange policy, foreign public debt threshold and loans to foreign countries amounts, as well as the currency plan are approved by the parliament, Milli Maclis. Currency regulation is primarily enforced by the CBA.

The CBA: (i) defines the scope and procedure of circulation of foreign currency and securities in foreign currency, (ii) passes acts on the regulation of currency transactions, (iii) determines rules for residents and non-residents to transact in foreign currency and foreign currency securities, as well as the rules for non-residents to transact in national currency and national currency securities, (iv) determines the procedure for the mandatory transfer, import, and sending of foreign currency and foreign currency securities owned by residents into Azerbaijan, as well as the conditions for opening foreign currency accounts by residents outside Azerbaijan (excluding persons licensed in the securities market, credit organizations, professional participants in the insurance market, investment funds and their administrators), (v) determines the unified form, procedure, term of presentation of the statistics of foreign exchange transactions, (vi) prepares and publishes statistics of foreign exchange transactions based on accepted international standards, and (vi) performs other currency control functions stipulated by law.

Definitions and Regimes

Currency Assets

Currency assets (valuables) are foreign currency, securities denominated in foreign currency, and precious metals and gems. Residents and non-residents may own and transact with currency assets. Foreign currency reserves of residents and non-residents are formed off foreign currency obtained from foreign trade, purchase of foreign currency in the domestic currency market, foreign currency loans, as well as other sources compliant with law.

Currency Transactions

Currency transactions are divided into current (routine) transactions and transactions involving movement of capital (capital transactions).

The routine transactions are: (i) an inward and outward transfer of a foreign currency in relation to carrying out settlements of export and import of items and for crediting for a term not exceeding 180 days export and import transactions; (ii) receiving and issuing financial credits for a term not exceeding 180 days; (iii) inward and outward transfer of interest, dividends, and other earnings out of deposits, investments, credits, and other transactions involving movement of capital; and (iv) inward and outward non-commercial transfers.

The capital transactions are: (i) equity investments; (ii) purchase of securities; (iii) transfers to pay for rights in real estate; (iv) granting and accepting a payment delay by more than 180 days for export and import of items; (v) attracting by authorized banks of deposits in currency assets for a term over 180 days; and (vi) all other currency transactions that are not routine.

Residents

Individuals permanently residing in Azerbaijan, entities, including unincorporated, established here and their divisions functioning outside Azerbaijan, and Azerbaijani diplomatic missions and other official representations outside Azerbaijan are residents for the currency control purposes. Settlements between residents in national currency are carried out without any restrictions.

Individual residents may subject to the following limitation transfer abroad/take out foreign currency assets previously transferred or brought into Azerbaijan: where the value of foreign currency assets previously brought in exceeds USD50,000/an equivalent, a resident must submit to the remitting bank a certificate from an institution of a country, from which the asset was imported, of disbursement of these assets in cash.

Where the value of foreign currency assets brought into Azerbaijan by resident individuals exceeds USD50,000/an equivalent, the customs shall report the importation to the CBA. In other cases, *i.e.*, absent any proof of previous inward transfer or importation of currency assets, outward transfers and exportation are subject to the applicable customs rules and regulation by the CBA.

Individual residents may have foreign currency accounts in authorized banks in Azerbaijan and freely deposit there foreign currency funds, including funds obtained in Azerbaijan. Resident enterprises must have foreign currency they earn credited to their accounts in authorized banks in Azerbaijan (there are exceptions to this rule determined by the CBA). Residents whose operations at security markets are controlled by the CBA and other residents may open bank accounts outside Azerbaijan in the manner determined by the CBA.

There are no restrictions on routine currency transactions by resident entities. Capital currency transactions are carried out in the manner established by the CBA.

Relations out of operations with precious metals and gems are regulated also by an act concerning precious metals and gems. The procedure for entities with foreign investment to use foreign exchange proceeds is governed also by an act governing investing.

Non-Residents

Non-residents for currency control purposes are individuals permanently residing abroad, entities, including unincorporated, formed under foreign law and based abroad and their divisions based in Azerbaijan, foreign diplomatic missions and other official representations, as well as international organizations and their divisions. As far as currency control is concerned, non-residents have the same rights as those afforded to residents. Additionally, the rights they have in their home jurisdictions (such as opening and maintaining a bank account) are not restricted.

Currency Exchange and Control

Currency can be exchanged only through local banks so licensed. Currency control in the Republic of Azerbaijan is carried out by the CBA while the currency control agents are authorized banks.



IP

IP covers inventions, literary and artistic works, such as designs, symbols, names, images, music, and any other intellectual works. IP law protects and enforces the rights of an IP creator and owner. The protected rights are copyright, patents, and trademarks as well as the rights in geographical indications, industrial designs, and other objects of IP.

The key categories of IP rights are the (1) copyright and related rights, (2) industrial property rights, and (3) non-traditional IP rights.

Law No. 115-IQ, *On Copyright and Related Rights*, dated 6 June 1996, protects: (i) literary works (books, brochures, articles, lectures, speeches, and computer programs); (ii) drama, musical-drama, and other stage works; (iii) choreography works and pantomimes; (iv) musical works with or without text; (v) audiovisual works (films, television and video films, slide films, filmstrips, and other film and television works); (vi) visual arts (sculpture, painting, graphics, design, lithographic works, graphic stories, comics, and other); (vii) decorative application and stage design works of art, including handwoven carpets; (viii) works of architecture, urban planning, and garden-park art; (ix) photographic works and works created by a similar method; (x) maps, plans, sketches, illustrations, and plastic works related to geography, topography, and other sciences; (xi) derivative works (translations, adaptations, quotations, annotations, abstracts, summaries, reviews, staging, arrangements,

reworking of works of science, literature, and art); (xii) collections; (xiii) television and radio programs, catalogs, booklets, photo albums, contents, and multimedia products (works); (xiv) computer programs (all types of programs expressed in any language and form, including source text and object code, including operating systems); and (xv) advertisement (commercials).

As in many other jurisdictions, in Azerbaijan, there is the copyright presumption: a disclosed author is presumed to be a rightful author of a work unless there is evidence to the contrary. An owner of an exclusive copyright can use the copyright protection mark – ©, his/her/its name, and the year of first publication, to indicate the copyright. If a work is published anonymously or under a pseudonym, the publisher named in the work is considered the author's representative (until and unless the author reveals his/her identity).

Copyright owners have an option to register their works with the Agency of the Republic for IP – a registration creates a presumption of authorship in the absence of other evidence.

An author of a work has personal (non-property) rights and property rights; personal rights are indefinite and include among others the rights to be recognized as an author and use/not use name as an author.

Duration of property copyright in Azerbaijan is:

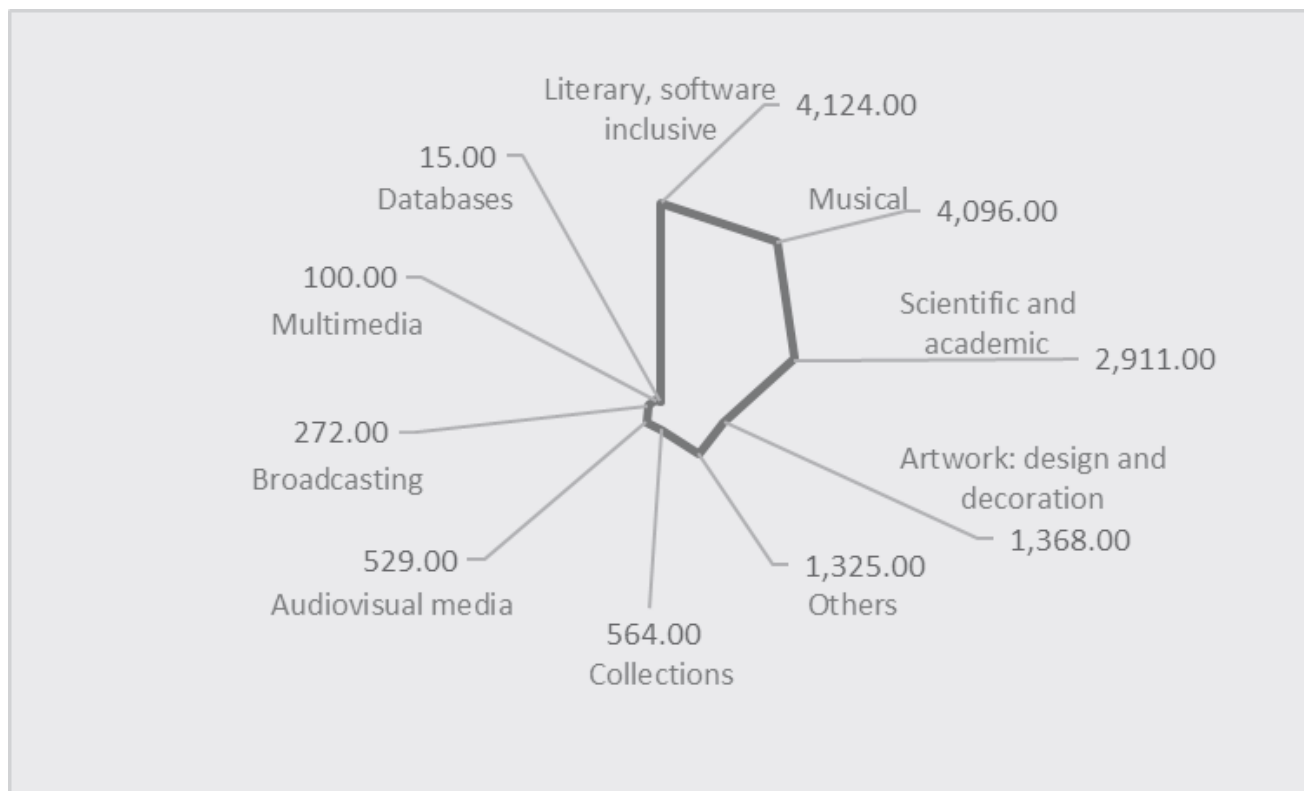
Copyright Duration	Conditions
Life of Author + 70 Years after Death	Applies to all works except those listed below
70 Years from Publication Date	Works published anonymously or under pseudonym
Life of Authors + 70 Years after Death of Last Author	Joint authorship
70 Years after Date of Publication	Works first published within 30 years of author's death
70 Years from Date of Publication or Creation	Collective works

Upon the expiration of indicated lengths, a copyright object becomes public domain.

Rights related to copyright belong to performers, producers of phonograms, and broadcasting organizations and include the rights over a use, reproduction, distribution, and public performance of their respective creative works. A protection term is 50 years since the first performance/publication/recording.

Azerbaijan participates in the *Berne Convention for Protection of Literary and Artistic Works of 1886* and acceded to the special agreement under the Convention, the *Geneva WIPO Copyright Treaty (WCT) of 2002*. Azerbaijan holds an observer status under the *TRIPS Agreement* (establishing standards for regulation by a state of different forms of IP as applied to nationals of other contracting states) and acceded to the *Marrakesh VIP Treaty* (aimed at facilitating access to published works for individuals who are blind, visually impaired, or otherwise print-disabled).

Since 1996, the Republic has registered a total of 14,855 intellectual works (of which 956 through an electronic application) and objects of related rights with the breakdown among the objects as follows: ⁶



⁶ https://copat.gov.az/docs/Hesabatlar/2022_Hesabat_Tam_NK.pdf.pdf?t=1677221069

Industrial property refers to trademarks, geographical indications, and patents (for inventions, industrial designs, and utility models). Law No. 504-IQ, *On Trademarks and Geographical Indications*, of 12 June 1998 is the key legal act for trademarks and Law No. 312, *On Patent*, of 25 July 1997 governs patents.

A trademark is a combination of graphics or signs to distinguish goods and services from those of another business, also represented through graphics or signs. The following elements can be registered as trademarks: words, letters, numerals, personal names, and descriptive elements, shape of the product and its packaging, as well as the color combination of the above-mentioned elements.

Geographical indications (GIs) identify a good as originating from a particular place. By contrast, a trademark identifies a good or service as originating from a particular company.

In the Republic of Azerbaijan, trademarks are subject to registration with the IP Agency. Unless international agreements of the Republic provide otherwise, foreign entities and natural persons except for those engaging in business in Azerbaijan, must transact with the Agency through a patent attorney.

A patent attorney is a national of the Republic permanently residing here, holding a higher education, having command of the state language of the Republic, and registered with the State Register of Patent Attorneys. The Register is maintained by the Agency; the list of attorneys is available at the website of the Center for Examination of Patents and Trademarks under the Agency.

The key international instrument regulating industrial property is the Paris Convention for Protection of Industrial Property of 1883, to which Azerbaijan acceded in 1995. Along with it, in 1995, Azerbaijan acceded to the Patent Cooperation Agreement, Agreement Concerning International Registration of Marks, and Convention instituting the World IP Organization.

The Law on Patent prescribes that the rights in (i) inventions, (ii) utility models, and (iii) industrial designs are protected by the Republic and confirmed by a patent. For registration, they all are required to have patentability criteria, such as novelty, inventive step, and industrial application or usability.

Trade secrets, domain names, customer databases, plant variety rights, publicity rights, and moral rights are non-traditional IP. Non-traditional IP also include non-traditional trademarks, such as trade dress (product configuration of non-functional elements), architecture and its elements used in a trademark, shapes and 3D images, hashtags, sounds, colors, touch and texture, scent, taste, and few others. Some of traditional industrial rights (such as geographical indications and industrial designs) are sometimes included into the non-traditional IP.

Non-traditional IP rights are protected under the same framework as that of traditional IP. That said, rights in trade secrets are protected through misappropriation and similar legal processes, such as investigation, prosecution, and hearing.



COMPETITION

Competition is a lawful activity in a market to obtain the most favorable conditions to do business. As a result of competition, a single price for fungible goods can be established and a supply and demand curve formed. The absence of competition may in the long run lead to a decline of the economy and lower standards of living.

Monopolism is the primary obstacle to competition. A monopolistic activity is the activity of businesses or authorities aimed at prevention, restriction, or elimination of competition while breaching the interests of other businesses and consumers.

Azerbaijan restricts anticompetitive and monopolistic behaviors. The applicable Azerbaijani law consists of primarily the Laws, *On Antimonopoly Activity*, *On Natural Monopolies*, and, *On Unfair Trade*, as well as the *Rules for Consideration of Cases of Breaching Antimonopoly Law*.

Azerbaijani law distinguishes the following types of monopolism: (i) the state, (ii) industrial, (iii) local, (iv) financial and credit, (v) resulting from horizontal and vertical agreements of businesses, (vi) natural, (vii) patent-license, and (viii) of subsoil use.

State, industrial, and local monopolies arise when executive, industrial, and local authorities respectively engage in monopolistic activities.

Monopolism is carried out by businesses with a dominant position in the market. A dominant position is an exceptional position of a business allowing it to exert a decisive influence on competition based on the superiority of its economic potential thereby making it difficult for other market participants to enter the market. A business with a market share exceeding 35 percent (or another applicable threshold) is considered to hold a dominant position.

Monopolism arising from horizontal and vertical agreements is exercised through illegal agreements between authorities and/or businesses that cause or may cause restriction of competition.

A horizontal agreement is made between businesses operating at the same level of a production chain or operating in the same market to avoid competition with each other. A vertical agreement is made between business operators at different levels of a production chain or between economic operators and their customers and shippers. A cartel agreement is an example of such agreements.

Antimonopoly control covers M&As, including foreign-to-foreign. As such, the antimonopoly filing thresholds apply in several layers: (i) in share acquisitions, being the acquisition of more than 20 percent of shares and (ii) any of the combined book value of assets in Azerbaijan, share of market, or a transferee's control of the transferor (target).

Natural monopoly is a state of a commodity market where satisfaction of demand is more efficient in the absence of competition due to the technological features of production, and the goods produced (sold) by a natural monopoly cannot be replaced by other goods. Such monopoly is most common among other sectors in oil and gas transportation, power transmission and distribution, irrigation, and heating.

Within the framework of natural monopoly regulation, the state: (i) regulates commodity prices (tariffs), (ii) identifies consumers required to be supplied a service and (or) determines the minimum level of supply, and (iii) ensures compliance within the approved output requirements.

Another obstacle to competition is the unfair trade. Unfair trade practices by a business are aimed at gaining an advantage by means which may harm other competitors or damage their business reputation. Unfair trade practices are:

- imitating a competitor's business, including an unlawful imitation of a competitor's goods, as well as their form, packaging, and external design (except for the external appearance resulting from the technical properties of goods);



- discrediting a competitor's business, including a dissemination of knowingly false and distorted information about business reputation and financial condition, as well as scientific, technical and production capabilities of other businesses;
- interference with a competitor's business, including an intentional disruption, interruption, or suspending a competitor's business relationship by unlawful means;
- unfair business, including an illegal receipt, use and dissemination of information of scientific, technical, production or trade operations of a business, including information constituting a trade secret;
- unfair business behavior, including a breach of an agreement with a party on giving up competition for a certain period of time which does not substantially restrict operations of other businesses; and
- consumer confusion, including a use of information that may mislead consumers about the identity of a business or the nature of its operations.

The State Service for Antimonopoly Supervision and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan oversees the state policy in competition as well as prevention of monopolistic activities. The Service's mandate includes:

- supporting competition and developing strategies for its development;
- preventing attempts to create monopolism, including undoing transactions that may lead to it;
- creating conditions for foreign investors to freely enter and exit the market; and
- detecting, investigating, and suppressing anticompetitive behavior.

DISPUTE RESOLUTION

Dispute resolution, including appeals, in Azerbaijan is carried out through various legal and institutional mechanisms:

Administrative Appeal and Procedure

In administrative procedures (unlike civil and other procedures where parties are equal), an appealing party submits to the jurisdiction of an administrative body. The body, within the framework of administrative proceedings, considers the received appeal and adopts an appropriate administrative act on it.

If a party does not agree with an adopted act (or action or inaction of an administrative body), he/she/it can file a claim with an administrative court. While there are separate administrative courts and administrative procedures, drawing a distinction between a civil or commercial case and an administrative case might at times be challenging. An individual appellant in administrative proceedings is exempt from the state duty upon filing for the case.

Pre-Trial Claim

Before instituting an action against a counterparty in a commercial case, a claimant is required to attempt to have its claims satisfied out-of-court. The procedure for a pre-trial settlement of disputes can be provided for by law or agreement/contract. The requirement is of lesser importance recently since the introduction of mediation.

Mediation

On 5 April 2019, the Law, *On Mediation*, was promulgated. The provisions of the Law requiring participation in an initial mediation session entered into force as of July 2020. Participation of the sides in a pre-trial initial mediation session has become mandatory in family, employment, and commercial disputes.

Use of mediation is possible, but not required, in administrative disputes.

A mediator (from an approved list) plays the role of an intermediary who, after hearing the parties, brings them to a

resolution of a dispute. Practically, it is oftentimes a burden of the parties to reach a conciliation.

If parties come to an agreement, a conciliation agreement is entered into; the agreement is subject to enforcement. Failing an agreement, the dispute will need to be resolved in court.

Fees for mediation vary from AZN50 to 400 plus a provision for expected costs. Persons who participated in the initial mediation session are exempt from paying fees when filing a claim with the court for the amount they paid to a mediation organization.

Arbitration

As of 31 January 2000, Azerbaijan enacted the *UNCITRAL Model Law on International Commercial Arbitration*. While Azerbaijan hosts a permanent arbitration institution, international arbitration proceedings, whether institutional or *ad hoc*, remain rare (and so does local arbitration).

Courts

Individuals and entities have the right to go to court to protect their violated rights. Initially, a claim is filed with the courts of first instance. There are the following courts of first instance: (i) district (city) courts of general jurisdiction; (ii) courts of serious crimes; (iii) military courts; (iv) administrative courts; and (v) commercial courts.

District (city) courts hear civil, petty administrative, and a certain category of criminal cases. The general statute of limitations is ten years, the claim period for a civil law agreement is three years, while the claim period for a real estate contract is six years; the period for filing claims arising from recurring obligations is three years.

Administrative courts, as discussed above, consider appeals against administrative bodies. Commercial courts hear business-related cases. Crimes related to military duties or committed in the military are considered by military courts. Courts of serious crimes try such crimes.



If a party does not agree with the decision of the court of first instance, he/she/it has the right to file an appeal complaint (protest) with a court of appeals. Civil and commercial as well as administrative appeals are filed within one month and criminal appeals are filed within 20 days of an act of the lower court.

In case of disagreement with the decision of an appellate instance, a cassation complaint is filed. Cassation complaints (protests) are considered by the relevant collegiums of the Supreme Court; the proceedings exclude a trial. A cassation complaint in civil and commercial cases is filed within two months of an appellate court decision.

Deadlines for filing cascading complaints in criminal cases vary from one month to twelve months depending on the appealed cases.

A cassation appeal in administrative cases is filed within one month of the date of full presentation to the parties of the court decision. A cassation appeal is filed within ten days of the date of such presentation if the case concerns a claim against the financial market supervisory authority.

In rare cases, an additional cassation complaint can be submitted subject to consideration by the Plenum of the Supreme Court.

When filing court claims, the state duties starting from AZN30 and higher depending on the value of the claim are paid. Additionally, costs (associated with notifying parties and summoning them to court, travel, rent, and similar) apply.

The Constitutional Court hears cases involving breaches of constitutional rights.

IMPORTANT INDUSTRIES AND RESTRICTIONS FOR FOREIGNERS

On 22 July 2022, the Republic adopted the *Socio-Economic Development Strategy for 2022–26*, with a focus among others to promote foreign direct investment (FDI) into sectors of economy outside oil and gas. While, as of 2021, the FDI, according to the Strategy, stood at USD790,400,000 (*cf.* Chapter, Republic of Azerbaijan, Economy, Business Environment, above), the Strategy targets its increase at ten to 15 percent year-over-year through 2026. That said, by the close of 2026, foreign sovereign debt threshold is targeted at USD10 billion; also, restrictions for foreign investment participation in important industries continue to apply.

Banking

The banking sector consists primarily of banks and non-banking credit institutions. The CBA is mandated to set a foreign capital limit for credit institutions in Azerbaijan, which has not been done. Under the Law, *On Banks*, a local bank cannot be a subsidiary of (*i.e.*, belonging by more than 50 percent of its voting shares to) a foreign entity (except foreign banks and bank holding companies).

Another restriction is that persons of listed offshore zones cannot establish or own local banks or register their branches or representative offices. The list includes Anguilla, Antigua and Barbuda, Aruba, Bahamas, Belize, Cook Islands, Grenada, Maldives, Antilles (Netherlands), Panama, Samoa, Saint Kitts and Nevis, Seychelles, Turks and Caicos, and Vanuatu.

Foreign banks planning to open branches in the Republic of Azerbaijan must obtain a banking license from the CBA. A foreign bank is required to obtain a separate permission and follow a special procedure with the CBA to open a representative office in the Republic of Azerbaijan.

Insurance

Foreign citizens, stateless persons, and foreign entities have the same insurance rights as local citizens and companies. However, there are restrictions for foreign insurers and brokers. The share of a foreign individual (as opposed to an insurer entity) in the charter capital of an insurer in Azerbaijan is limited to ten percent and the total amount of shares owned by foreign individuals cannot be more than 30 percent of the capital.

Since 2017, no constraints on the percentage of foreign corporate capital in the total capital of Azerbaijani insurers apply, and the cap now stands at 100 percent. Prior to that, until 2015, foreign capital was capped at 50 percent of the total capital of Azerbaijani insurers, increasing to 70 percent until 2016, and further extending to 85 percent until 2017. The exceptions were the international financial institutions, foreign insurers, and institutional investors (banks, pension funds, and investment funds) whose membership includes Azerbaijan.

Only local insurers, facilitated by local intermediaries, may undertake insurance of property interests in Azerbaijan. Nevertheless, insurance risks (for cargo and vehicles and third-party liability) related to commercial international maritime and air transportation, as well as space missions, transportation, and installations (including satellites) may be insured directly by foreign insurers. Opening branches of foreign insurance companies in Azerbaijan is prohibited meaning that no foreign insurers may operate here.

Domestic insurers may operate as reinsurers subject to obtaining and maintaining the relevant licenses. Similarly,

domestic insurers may reinsure their risks with non-Azerbaijani insurers (who, previously, were required to enter into the list of approved foreign reinsurers maintained by the CBA).

Foreign insurance brokers are prohibited to open branches in Azerbaijan. Those operating outside and wishing to broker insurance of risks in Azerbaijan had to enter into the CBA approved list.

There are also requirements for founders and participants of local insurance brokers and agents, including foreign founders and participants. The founders/participants must have at least five years of experience in insurance and be not prohibited from conducting insurance operations in their country of residence.

Oil and Gas

Under Decree No. 310, dated 28 March 2000, of the President of the Republic, only state enterprises and joint stock companies controlled by the state may engage in the production and processing of oil, oil products, and natural gas and refining of wastes of oil and oil products. The existing contractors under oil and gas production sharing agreements operate pursuant to agreements approved into law prevailing over most conflicting rules.

Other

Decree 310 includes the restrictions for:

- import, export, and preparation of controlled drugs and psychotropic substances with limited turnover;
- mining of precious stones and gold;
- production and sale of radioactive substances;
- manufacture and use of equipment for issuing securities; and
- production and operation of space-satellite means of communication and special secret means of communication and ciphers.

Only state enterprises and joint stock companies controlled by the state may engage in the operations listed above.

Protection of state security facilities and other facilities, the list of which is approved by the Cabinet of Ministers, and of safety of citizens is carried out by the state bodies.

Construction: foreign firms can engage in construction projects, subject to obtaining and maintaining the requisite permits and licenses. Foreign investors are eligible to partake in the telecommunications sector, contingent upon meeting the requirements for acquiring licenses and reporting on equipment deployed. Hospitality industry includes leisure (hotels, restaurants) and transportation facilities, tourism, event planning, and customer service activities, in which foreigners have the same status as local persons.



ENVIRONMENT, HEALTH, AND SAFETY

Environment

The factors that once played a key role in the development of mankind, such as the growth of human population and, as a result, the establishment of more sophisticated social relations, have brought about the phenomenon of consumer society. The consumeristic pattern has recently started developing pressures on the environment leading to its degradation. Since then, the need for environmental protection and conservation has been nearly universally recognized.

Numerous international treaties and accords, global and regional alike, have been developed and various action plans put into implementation to conserve the environment. Not least importantly, the need for environmental protection and action is leading national governments to the promotion, adoption, and implementation of acts aimed at conserving the environment just as the international instruments do.

Upon the restoration of the state sovereignty, the Republic of Azerbaijan passed several laws, including those approving joining international treaties, to regulate use of the environment and addressing its conservation. The system of such acts consists of:

- international acts (including principles of universally accepted international law);
- Constitution of the Republic of Azerbaijan (and Constitution of the Naxcivan Autonomous Republic);
- laws of the Republic of Azerbaijan (and of the Autonomous Republic);
- decrees and instructive orders of the President of the Republic;
- resolutions of the Cabinet of Ministers (and acts of the Cabinet of the Autonomous Republic);
- acts of other central executive authorities; and
- acts of local self-governments.

The Republic of Azerbaijan has joined around 20 conventions, including relevant protocols, concerning preservation of the

environment. A number of conventions, such as *SOLAS*, the *International Convention for Safety of Life at Sea*, and *International Convention for Prevention of Pollution from Ships, MARPOL 73/78*, that may apply across the Caspian Sea, have been ratified.

Azerbaijan is also a participant of the *Framework Convention on Protection of Marine Environment of Caspian Sea*. It is a regional international convention signed on 4 November 2003 made in Tehran, Iran, among the five Caspian littoral states: the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation, and Turkmenistan. The purpose of the Convention, often referred to as the Tehran Convention, is to protect the marine environment of the Caspian Sea from pollution, including the preservation, protection, restoration, sustainable and efficient use of its living resources.

Among the national laws of the Republic of Azerbaijan, the *Water Code* of 26 December 1997, the *Forestry Code* of 30 December 1997, the *Land Code* of 25 June 1999, the Laws: (i) of 8 June 1999, *On Environmental Protection*, (ii) of 13 February 1998, *On Subsoil*, (iii) of 27 March 2001, *On Protection of Free Air*, (iv) of 24 March 2000, *On Specially Protected Natural Areas and Objects*, (v) of 12 May 2006, *On Animals*, (vi) of 12 May 2006, *On Phytosanitary Control*, (vii) of 12 March 2002, *On Obtaining Information of Environment*, (viii) of 30 December 1997, *On Radiation Safety of Population*, and (ix) of 27 March 1998, *On Fishing*, compose the primary regulation of environmental use and protection.

Environmental hazards, deterioration of the environment and disruption of ecological balance and human health, are mainly observed as a result of anthropogenic factors. The Law, *On Environmental Protection*, protects vital interests of humankind and society against the dangers caused by anthropogenic and natural effects on the environment.

The essence of ecological safety is ensuring sustainability of anthropogenic activities by preserving the environment. Such sustainability can be ensured by proper regulation of all aspects of human activity far beyond the treaties and acts listed above.

A number of decrees of the President, resolutions of the Cabinet of Ministers, and acts of other executive authorities have been adopted on the basis of those treaties and acts. The decrees, resolutions, and acts define the basic principles and rules of ensuring the use of nature, environmental protection, and ecological safety.

Environmental education is one of the conditions for ensuring environmental safety. Increasing environmental awareness is one of the tasks under the *Aarhus Convention, On Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters*; Azerbaijan acceded to the Convention as of 23 March 2000 (but not its 2003 *Kyiv Protocol on Pollutant Release and Transfer Registers or the 2005 Almaty Amendment to the Convention*).

Health

The following acts among others protect public health: (i) the 1992 Law, *On Sanitary and Epidemiological Wellbeing*, (ii) the 1997 Law, *On Protecting Public Health*, (iii) the 1999 Law overhauled in 2018, *On Health Insurance*, and (iv) the 2022 Law, *On Food Safety*.

Azerbaijan participates in the International Labor Organization (ILO) instruments protecting health, such as the *Medical Examination of Young Persons (Industry and Non-Industrial Occupations) Conventions, 1946*, and the *Maternity Protection Convention, 2000*. The Republic is a member of the World Health Organization (WHO) that maintains a country office here.

The Ministry of Public Health implements the state policy and regulation of healthcare. Following recent reallocation of responsibilities between the Ministry and the State Agency for Compulsory Medical Insurance, the Ministry, through subordinated institutions, is responsible primarily for research and education as well as registration of medicines. The Union for Management of Regional Medical Units (TABIB) public entity (under the Agency) manages medical institutions included in the public healthcare system.

Ensuring health and well-being of employees being the responsibility of an employer is the principle that Azerbaijan adopted. The key act governing occupational health is the Labor Code.

As in many other places, Azerbaijan chose to use the compulsory health insurance as an efficient way to eliminate problems in the healthcare system. As of 2021 (phased out until 2022), the following medical insurance premia are payable:

	Employee's Salary	Amount
Employer and employee, each	≤AZN8,000	Two percent of salary amount
	>AZN8,000	AZN160 + 0.5 percent of >AZN8,000

The State Agency for Compulsory Medical Insurance is a public entity managing medical insurance.

The state sanitary supervision of working conditions at the workplace, implementation of preventive medical measures, and reduction of occupational diseases are carried out based on the 1992 Law, *On Sanitary and Epidemiological Wellbeing*. While the Republican Center for Hygiene and Epidemiology continues to be under the Ministry of Public Health, functions of the state control for sanitary and epidemiology are expected to be reallocated between the Ministry and Agency.

Safety

The Constitution of the Republic of Azerbaijan provides in Article 35 for the right of “everyone to work in a safe and healthy environment.” Article 7 of the *International Covenant on Economic, Social and Cultural Rights (1966)* documents the worldwide recognition of the right of everyone to the enjoyment under just and favorable conditions of work ensuring, among others, safe and healthy working conditions. The Covenant includes 171 participating states, including the Republic of Azerbaijan.

The Labor Code of the Republic of Azerbaijan defines labor protection as a system of technical safety, sanitary, hygiene, and therapeutic and preventive measures, norms, and standards with the aim of ensuring the right of employees to work in safe and healthy conditions. The Code further defines among others the general norms and rules of safety, additional and special norms for safety of women and workers under 18, and the state, public, and trade union controls over the implementations.

The Labor Code guarantees to employees *inter alia*: (i) the right to safe employment environment being included into an employment agreement upon making it; (ii) mandatory medical examinations; (iii) the right to receive information about safety conditions; and (iv) prohibition of operations noncomplying with the requirements of labor protection. The employees’ labor safety rights are premised on the employers’ obligations.

Along with the rights, employees have obligations as far as labor protection is concerned, such as the obligations to stay apprised of the safety requirements, discharge employment duties without jeopardizing own and others’ lives, and to inform the employer of job accidents, any emergencies, and any violations of occupational safety regulations.

Apart from the Labor Code, occupational safety and health is governed by the 1999 Law, *On Technical Safety*. The Law provides for the bases to safely manage hazardous facilities, including governing the activities of entities and individuals operating them.

Other regulation of occupational safety and health includes the Law, *On Compulsory Insurance against Loss of Professional Employability Due to Industrial Accidents and Occupational Diseases*, Resolutions of the Cabinet of Ministers (such as Resolution No. 196 approving acts pursuant to the mentioned Law), standards approved by ministries (e.g., the 1999 Recommendations by the Board of the Ministry of Labor and Social Protection, *On Organizing Labor Protection Services at Enterprises, Departments, and Organizations*), and the rules and instructions by other regulators (e.g., the 2001 *List of Information Specified in Technical Safety Declaration and Rules to Compile Information* of the Ministry of Emergencies, State Mining Technical Control Committee).

Additionally, Azerbaijan is a party to the *ILO Maternity Protection Convention, 2000*. The following ILO accords, however, do not include Azerbaijan as a participant: the *Safety and Health in Construction Convention, 1988*, the *Chemicals Convention, 1990*, the *Prevention of Major Industrial Accidents Convention, 1993*, the *Safety and Health in Mines Convention, 1995*, or the *Promotional Framework for Occupational Safety and Health Convention, 2006*.

Clause 5 of the *Collective Bargaining Agreement (General Collective Agreement) among the Cabinet of Ministers, the Confederation, and the National Confederation of Organizations of Entrepreneurs (Employers) for 2023–25* governs the protection of labor rights, labor protection, and technical and environmental safety.

NOT-FOR-PROFITS

A non-commercial activity is not for profit, meaning that no dividends or dividend-like distributions are made from it. The goals of a non-commercial activity are addressing public needs and solving social problems. A not-for-profit activity can be run individually and, more commonly, through a corporate form.

Not-for-profit organizations carry out their activities by establishing specific types of entity, such as unions of entities and non-governmental organizations (NGOs). Non-commercials include charities, *i.e.*, activities to improve conditions for the needy, and additionally cover science and education, advocacy, research, sports, culture and art, health, and other areas.

Not-for-profit organizations may engage in business, the lines of which must comply with their stated purposes. Non-profits are taxed only if they engage in business.

NGOs

NGOs are governed by the Civil Code and Law, *On Non-Governmental Organizations (Public Associations and Foundations)*, of 2000. The Law applies to public associations and foundations as well as foreign NGOs wishing to operate in Azerbaijan.

NGOs are subject to mandatory state registration. The registration process is carried out by the Ministry of Justice.

An NGO can be created by its establishment, as well as by a reorganization of an existing NGO. When establishing a foundation, its charter (authorized) capital cannot be less than AZN10,000.

NGOs can have an all-Azerbaijani, regional, and local status. These statuses depend on the areas where NGOs are registered and operate: (i) activities of all-Azerbaijani NGOs are applied to the entire territory of the Republic, (ii) activities of regional NGOs cover two or more administrative territorial units of the Republic, and (iii) local NGOs operate within an administrative territorial unit.

Establishing and operations of NGOs in the armed forces of the Republic are prohibited.

An NGO may open branches and representative offices in Azerbaijan and abroad. The state registration of branches and representative offices in Azerbaijan is not required.

The state registration of a branch/representative office in Azerbaijan of a foreign NGO is carried out based on an agreement with the Republic represented by the Ministry of Justice. To start the negotiations over the agreement, a foreign NGO applies to the Ministry of Justice. The negotiations address among others relevance of the activities of the NGO and its contribution to the Azerbaijani society.

Upon a successful finalization of the negotiations, the agreement is made, and the process of the state registration commences.

The head of the branch/representative office is appointed by the foreign NGO. The deputy head must be a citizen of the Republic of Azerbaijan.

The sources to form NGO's assets are: (i) regular and one-off membership fees of founders and members of public associations; (ii) proprietary rights and voluntary donations; (iii) income from the sale of goods, provision of services, and performance of work; (iv) dividends, income from stocks, bonds, other securities, and deposits; (v) revenues from the use of own property and its sale; (vi) grants; and (vii) other legal sources.

A donation is an assistance provided in the form of financial means and (or) in other material form by citizens of Azerbaijan and foreigners as well as by local and foreign entities without requiring an NGO to achieve any goals. Donating does not require registration; however, an NGO must report it to the Ministries of Justice and Finance.



A grant, on the other hand, assists an NGO only for a specific purpose (goal). Such goals include development of humanitarian, social, and environmental projects, restoration of social facilities and infrastructure, programs of education, healthcare, culture, legal advice, information, publishing and sports, science, research, and other programs of key importance to the public. Agreements on a grant, subgrant, and additional grant must be registered with the Ministry of Justice by the receiving NGO and individual (grants of religious organizations are registered with the State Committee for Religious Associations).

Religious Organizations

A religious organization (e.g., a mosque, church, and synagogue) is formed for a joint confession and dissemination of faith. All religious institutions may function only after their state registration and inclusion in the state register of religious institutions. To register a religious organization (a community, congregation, and similar), it is necessary to apply to the State Committee for Religious Associations.

The founders of a religious organization must be at least 50 individuals (who can be citizens of Azerbaijan or foreign/stateless citizens legally staying in Azerbaijan). When submitting documents for registration, founders' personal data shall be indicated and information about the background and purpose of the religious organization disclosed. Registration of a religious organization is completed in 40 calendar days.

Political Parties

A political party is a not-for-profit entity established by at least 50 Azerbaijani citizens. For the state registration, a party requires at least 5,000 members. The Ministry of Justice registers political parties in ten calendar days.