

Bureau 28a

Legal Updates*

Digest

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COURTS RESOLVE ON IMPORTANT COMMERCIAL LAW CONCEPTS



CONSTITUTIONAL AND SUPREME COURTS RESOLVE ON INTERNATIONAL JURISDICTION, OPTION TO LITIGATE, FOREIGN ELEMENT, AND SUCCESS FEE

Azerbaijani civil procedure has long been recognizing international jurisdiction of Azerbaijani courts. Additionally, substantive civil law recognizes the concept of a foreign element entitling a matter to be addressed under a non-Azerbaijani law. Resolution No. 15/2023, dated 14 December 2023, *On Practices of Applying Law in Commercial Disputes with Foreign Element*, of the Plenum of the Supreme Court of the Republic of Azerbaijan resolves on these and related matters.

Upon resolving on international jurisdiction in a commercial dispute, a link between a foreign party to a dispute and Azerbaijan is reviewed by assessing if any of the following exists or occurs in Azerbaijan: (i) a place of residence, domicile, or place of abode of any of joint plaintiffs and/or joint defendants, (ii) a location of a governing body, branch or representative office of a corporate party to the dispute, (iii) the defendant's property, (iv) an event or another circumstance giving rise to a claim for damages, (v) the discharge of an obligation in whole or in part, and (vi) bases for a claim from unjust enrichment.

January, 2024

According to the resolution, the existence of an arbitration clause (agreement) is not a ground not to consider the case in a court. Thus, if one of the parties files a claim with the court despite the existence of an arbitration clause, the court must review the possibility of considering the case. If there is no objection from the opposing party prior to the commencement of consideration of the case on the merits, the court has the right to consider the case.

The resolution categorizes foreign elements into:

- a subject (participant) of legal relations: where legal and natural persons of different states or an international organization act as participants of relations; and
- an object of legal relations: where the object of relations involving citizens of Azerbaijan is located abroad.

If any is present, a court's jurisdiction is international.

In resolving on a governing law applicable to a matter involving a foreign element, consideration is given in the same order to:

- an agreement between, or a clear expression of will of, the parties; and
- bilateral and multilateral international treaties, which Azerbaijan is a party to, domestic legal acts of Azerbaijan, and rules established by the Law, *On International Private Law*.

A court applies domestic law in the following cases where the content of a foreign law cannot be determined: (i) the measures taken to determine the content of the foreign law fail; (ii) such measures are costly; and (iii) neither party to a dispute can provide a proof of the rules they refer to in their claims and defenses.

January, 2024

Documents from outside Azerbaijan for use in Azerbaijan must be legalized or apostilled. Where bilateral or multilateral legal aid treaties apply, documents are accepted where certified in the manner set out in such treaties. The resolution exemplifies the point by referring to the 2002 Chisinau Convention, *On Legal Aid and Legal Relations in Civil, Family, and Criminal Cases*, providing that a form and term of a power of attorney are determined by the rules in the state where the instrument is issued.

The Plenum of the Constitutional Court of the Republic of Azerbaijan in its resolution of 18 December 2023, *On Integral Interpretation of Sub-Sections 6.2, 390.1, and 390.5 of Civil Code of Republic of Azerbaijan, Paragraph III of Section 19 of Law of Republic of Azerbaijan, On Advocates and Advocate Practice, Section 61 of Constitution of Republic of Azerbaijan, and Sub-Sections 16.1 and 560.2 of Civil Code of Republic of Azerbaijan*, resolves on legality of success fees of lawyers admitted to the bar, i.e., advocates.

The Court acknowledges permissibility of success fee arrangements, i.e., stipulations in agreements for legal assistance regarding the determination of remuneration for achieving a specified result. That said, such stipulations can be scrutinized for whether they amount to hardship leading to their invalidity on the count of undue influence.

IP DATABASES GO LIVE , CAPITAL FOR TRP AND PAYMENT INSTITUTIONS



February, 2024

The Board of the Ministry of Economy approved by Resolution No. 31 of 29 December 2023, *Amounts of Paid-in Capital of Entity Listed in Sub-Sections 45.1.6-1 and 52.1.10 of Migration Code to Obtain (Prolong) Temporary or Permanent Residence Permit and of Turnover of Persons Listed in Limb 2 of "Note" to Section 45 and Sub-Sections 52.1.10 and 52.1.11 of That Code*. The Resolution is effective 16 January 2024.

Sub-Section 45.1.6-1 of the Migration Code grants a temporary residence permit (TRP) to a head of a foreign-invested local enterprise with an equity capital exceeding the threshold that the Resolution sets at ₮50,000.00. Limb 2 of the Note to Section 45 of the Code requires that entities employing the head have the turnover that the Resolution sets at ₮100,000.00. Permanent RPs require twice these amounts.

The Resolution provides for similar requirements for TRPs of foreign and stateless sole proprietors.

February, 2024

The Management Board of the Central Bank issued on 10 January 2024 under Resolution No. 01/2, *Regulations of Arranging and Running Operations by Payment Institutions and E-Money Institutions*, effective 23 January. The Regulations are issued under [Law No. 987-VIQ, On Payment Services and Payment Systems](#) (Sub-Sections 3.2.9, 4.2, 5.1.1, 5.1.2, 7.1.1, 10.1, 49.2.11, 49.3, 59.2.3, 62.3.1, and 62.4 of it) and establish, among others, minimal capital requirements for the institutions.

The requirements for the minimal paid-in (charter, and, in case of branches of foreign payment institutions, allocated) capital of the institutions are as follows:

- institutions engaged in any or all of (i) making over payment account cash deposit and (or) disbursement transactions, (ii) executing payment transactions by credit transfer, direct debiting, payment cards, and other similar payment instruments, and (iii) issuing payment instruments and (or) acquiring of payment transactions – ₴500,000.00;
- institutions engaged in acting between upon carrying out payment transactions and/or money transfers – ₴100,000.00; and
- e-money institutions – ₴750,000.00.

February, 2024

The minimal total capital of these institutions must not be less than the minimum paid-in capital amount as set out above and the amount calculated as follows:

Monthly Average Payment Turnover	Accrued Amount (Percentage of Turnover)
<₺10,000,000.00	4 percent of it
≥₺10,000,000.00<₺20,000,000.00	2.5 percent of it plus ₺400,000.00
≥₺20,000,000.00<₺200,000,000.00	1 percent of it plus ₺650,000.00
≥₺200,000,000.00<₺500,000,000.00	0.5 percent of it plus ₺2,450,000.00
≥₺500,000,000.00	0.25 percent of it plus ₺3,950,000.00

February, 2024

No minimal paid-in or total capital amounts apply to payment institutions providing account information services; however, such institutions must maintain a civil (professional) liability insurance cover of at least 50,000.00 for every 100,000.00 payment service users.

The Intellectual Property Agency has launched the Open Register for industrial property: <https://copat.gov.az/az/news/qi-mulkiyyt-agentliyi-ind-aciq-reyestr-faliyyt-baslayib>. The Register is accessible at: <https://reyestr.copat.az/>

The Register presently includes patents and is expected to include other objects of IP, such as trademarks and geographical indications.

TAXATION: HIGHLIGHTS OF 2023 AMENDMENTS



March, 2024

During 2023, considerable amendments were made to the Tax Code. Acts introducing the amendments are dated 24 February (Law No. 829-VIQD), 7 March (Law No. 838-VIQD), 16 June (Law No. 922-VIQD), 6 July (Law No. 937-VIQD), 14 July (Law No. 975-VIQD), and 5 December (Law No. 1033-VIQD), respectively, the latter being passed as a part of the annual state budgeting process. The adjustments cover tax administration, accounting practices, and tax reliefs, including various exemptions.

Effective August 2023, to facilitate licensing, activity registration, and overall control of qualifying persons by the Central Bank, the tax authorities must provide upon its request the following (in addition to those provided previously): (i) extracts from the state register, charters, and information of shareholders and executives of commercial entities; (ii) information of entities in which individuals, commercial entities, and their shareholders are participants, including shareholding in such entities; and (iii) information of the profits (income and losses) of individuals and commercial entities, their executives, shareholders, and entities in which they participate.

March, 2024

The stipulation mandating leased assets to be bespoke for a lessee and remain unused by others post-lease has been revoked. Should a financial lease lessee reassign the lease, treatment of the transaction as a financial lease may survive the assignment. When a financial lease does not meet conditions prescribed by the Tax Code, it can be reclassified as an operating lease (including after termination of it).

New regulations introduce escalating financial penalties for high-risk taxpayers assessed as a percentage of a value of sham transactions they engage in during a year: (i) ten percent for the first violation, (ii) 20 percent for the second, and (iii) 40 percent for third and subsequent violations. This provision will take effect when the procedures for adding to and removing from the list of high-risk taxpayers are implemented (expected in three months starting January, which deadline is unlikely met).

The deadline for the land tax returns has changed to no later than 31 January of the year following the reporting year, previously set at 15 March, with a 30-day submission period following the presentation of the liquidation balance for entities. Land tax prepayments must be made in equal amounts by 15 August and 15 November, accounting for half of the prior year's tax amount, with new or previously non-taxable entities paying 50 percent of the annual tax for acquired land.

Now, taxpayers engaged in public catering with taxable transactions over AZN200,000 in any month during a consequent twelve-month period, intending to continue as the simplified taxpayers, must apply to tax authorities within ten days of the start of the month after their transactions exceed this threshold.

March, 2024

The road tax hike for transportation of hazardous goods, previously applied to owners of vehicles registered in foreign countries entering, exiting, or transiting through the territory of the Republic, as well as to those operating such vehicles, has been repealed. The repeal is related to the elimination of the issuance of permit forms at border checkpoints, with corresponding abolition of the respective state duties, per Law No. 830-VIQD amending Law No. 223-IIQ, On State Duty. Now, the lower limit of the hike applicable to freight trucks, trailers, and semi-trailers, depending on the number of axles and duration of stay, is set at USD0.30 for the range of 41 to 51 tons.

Currently, taxpayers engaged in freight transport do not pay taxes, in particular the simplified tax, compulsory state social insurance or compulsory health insurance for receiving the Distinguishing Sign.

Tax exemptions for payments towards export promotion funded by the state budget previously applicable in relation to the corporate and personal income and simplified taxes under the Tax Code have been repealed.

Interest on individual deposits in national currency generated by banks is exempt from the personal income tax per an institution where: (i) the monthly interest income amount does not exceed AZN200; or (ii) the deposit is committed for at least 18 months. The corporate income tax benefits for non-sales revenues of entities engaged in agricultural production, state-funded subsidies for such entities, and dividend income for their shareholders are extended until 1 January 2027. Importantly, dividend income paid by Azerbaijani tax resident enterprises is now subject to five percent as opposed to ten percent previously applicable.

March, 2024

By amendments, fees and rewards paid to mediators under civil law agreements with mediation institutions, related to mediation services, are not subject to the corporate income tax.

Following the 5 December amendments, the State Tax Service, under Order No. 2417040100051900 of 2 February 2024, introduced new rules and forms for tax returns, including Annex 2 of the Withholding Tax Declaration, which now includes details of (i) a type of property (movable or immovable) rented and (ii) reference number of consent letter in response to DTA-03.

As of January 1, 2023, for three years, media subjects are exempt from the value added tax (VAT) and simplified and personal and corporate income taxes.

The sale of passenger cars manufactured in Azerbaijan is exempt from the VAT for a period of ten years starting 1 May 2023.

Also, as of 2024 through 2026, 50 percent of revenue from non-cash payments via POS terminals for medical services by medical institutions and private practitioners is deductible from taxable income.

March, 2024

Beginning March 2023, for a period of five years, manufacturing, sale, and importation of all types of equipment, their parts, personal armored protective clothing, tools, explosives, and pyrotechnic materials in relation to clearing liberated as well as other territories affected by war from mines, including the import of technologies for their production, as well as mine detection dogs are exempt from the VAT.

As of 2024, the additional VAT exemptions apply in relation to: (i) interest under a financial lease; (ii) an otherwise non-vatable provision of assets under a financial lease; and (iii) services and work for the Central Bank. VAT benefits with a three-year duration starting January 2024, include: (i) medical services provided by educational medical institutions and (ii) the import of oil and natural gas in swap transactions.

RENEWABLES AUCTION, CASPIAN SEA ISLANDS



Auctions selecting renewable energy producers are introduced by Law, dated 31 May effective 14 July 2021, *On Use of Renewables to Generate Electricity*.

The European Bank for Reconstruction and Development (EBRD) [reports](#) of launching the first renewables auction, which is for a 100-megawatt solar power plant in Qobustan. Auction bidders must produce electricity exceeding the capacity limit set by the Cabinet of Ministers (absent such limit set by the Cabinet, the capacity of 100 megawatt is set by the Ministry of Energy). The auction must also determine the guaranteed tariff to be applied in the electricity sale and purchase agreement to be made with the winner.

Per the requirement of the Ministry, only companies (apparently, both local and foreign), excluding sole proprietors, are invited to participate in the auction. According to the *Rules of Selecting Producers from Renewables*, the participants will be required to pass a qualification assessment that considers, among others, financial position, experience with similar projects, as well as extents of utilizing, upon the implementation and operation, of domestic labor and produce.

April, 2024

April, 2024

BILL OF ARTIFICIAL ISLANDS

During the plenary sessions of the Parliament on 19 and 23 April 2024, discussions were held over the Bill, *On Developing Artificial Land Plots in Part of Caspian Sea (Lake) Belonging to Republic of Azerbaijan*. Upon the final approval at the third reading, the Bill will be enacted upon promulgation. The expected date of the final reading is not known.

As per the draft, artificial land plots (artificial islands) can be developed in the part of the Caspian Sea under the jurisdiction of the Republic. While not dealt with in the Bill, such part, as far as seabed is concerned is yet to be agreed with Iran and Turkmenistan and, as far as water surface is concerned, is to be agreed among all Caspian littoral states.

Artificial islands can be situated on territories distinct from or adjacent to the coastal strip, an island, or another artificial island, and are set aside from water fund land. Restrictions under the Land Code on the conduct of construction on the coastal strip would not apply in the case of developments adjacent to the strip. Developing islands that impede maritime navigation is prohibited.

Islands can be developed by any persons, including the Republic. Any developers, other than the Republic, must obtain the right to so develop under the Law.

To obtain the right, a developer must apply to the State Committee for Urban Planning and Architecture with a detailed site plan. The development of an island would require the specialized environmental impact assessment document under Law No. 1175-VQ, *On Environmental Impact Assessments*.

April, 2024

Upon its review, the Committee submits its opinion on the development to the Cabinet of Ministers. The concept of an artificial island is approved by the Cabinet of Ministers. An island, including any commercial and other infrastructure as a part of its approved plan, must be developed within eight years of the approval with the first two years allocated for the developer to obtain any necessary construction and other permits.

Upon commissioning, an artificial island is designated as land per the requirements of the Land Code. Ownership of the island will belong to the Republic and the island cannot be privatized.

The developer would hold a preferential right to lease land plots on an island. The right does not extend to land for infrastructure for the provision of public services.

UPDATE ON TAX TREATIES , CHARTER CAPITAL



UPDATE ON DOUBLE TAXATION AVOIDANCE TREATIES

International double taxation refers to the phenomenon of taxing the same income in more than one state. Double taxation adversely affects interstate trade and free movement of capital, technology, and labor. Agreements on the elimination of double taxation are of special importance to developing international economic relations, including stimulation of foreign economic activity and attraction of foreign investments.

On 23 April 2024, Law No. 1139-VIQ approved the *Treaty between Government of Republic of Azerbaijan and Government of Republic of Turkiye for Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income*. The Treaty was signed on 19 February 2024 slightly over 30 years after the first such treaty was made on 9 February 1994. Presently, Azerbaijan continues to have 57 agreements for the avoidance of double taxation with 55 in effect.

With the decline of oil revenues in Azerbaijan, the tax systems of Azerbaijan and Turkiye are gaining common ground.

May, 2024

May, 2024

The percentage of tax revenues in the Azerbaijani GDP is [reported](#) as of 2023 at 17.9 percent averaging 14.1 percent from 1993 to 2023. Taxes in Azerbaijan include the personal and corporate income, the value added (VAT), excise, property, highway, land, and mining taxes. Some of these can be paid at the Republic's and local (Naxcivan and municipality) levels.

The tax-to-GDP ratio in Turkiye is [expected](#) for 2023 at slightly higher than 20 percent. As such, the tax regime in Turkiye is an important component of the country's economy hosting the income (personal and corporate), consumption (the VAT and SCT, special consumption tax, i.e., excise), and other (e.g., property, stamp duty) taxes.

Presently, the new treaty awaits approval in Turkiye.

PENALTIES FOR FAILURE TO PAY IN, AND REPORT ON, CHARTER CAPITAL

The Republic seeks to improve fiscal compliance of its entities through the introduction to the Code of Administrative Violations of penalties for a failure to comply. The proposed bill, a legislative initiative, provides for the addition to the Code of new Articles 405-1 and 451-1.

May, 2024

According to the proposed amendments adopted in the first and second readings at the Milli Maclis sessions on 7 and 21 May, respectively, officers managing a limited liability company and the LLC, itself, are subjected to administrative fines for a failure of participants of the LLC to pay in the charter (authorized) capital of the LLC within the established time period. Such a period cannot be longer than three months.

The fine for officers will amount to One Thousand Manats, while for LLCs, a fine of Two Thousand Manats is envisaged.

Additionally, in the case of a failure to submit information of the fully paid in charter capital of an LLC to the body specified by the relevant executive authority within the term stipulated by the Law, *On State Registration and State Register of Legal Entities*, officers and entities will be subject to the fines of Five Hundred and One Thousand Manats, respectively. Such term is 40 business days.

The amendments are expected to pass one last third reading at the parliament before being promulgated to take effect.

AI , ARMS AND AMMUNITION PERMIT, BEPS MLI



June, 2024

FIRST BINDING AI FRAMEWORK

Humankind is developing a new life course integrated with artificial intelligence (AI). In response to concerns about challenges arising from this integration, [the Committee of Ministers of the Council of Europe adopted on 17 May 2024, the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law.](#) The Convention will be open for signing by the states starting 5 September 2024; once signed by a state, the Convention would be binding on the signatory.

Azerbaijan is a member of the Council since 25 January 2001.

The Convention aims to ensure that activities involving the lifecycle of AI systems are consistent with human rights, democracy, and the rule of law. The binding principles of the Convention include (i) transparency and oversight tailored to specific contexts and risks, including the identification of AI-generated content, (ii) accountability and responsibility for AI-resulting adverse impacts on human rights, democracy, and the rule of law, (iii) protecting privacy and personal data individuals, and (iv) establishing controlled environments for developing, experimenting, and testing innovations under a competent authority supervision.

June, 2024

Parties to the Convention must collaborate, aiming to enhance oversight mechanisms for compliance with the Convention, including through public discussions and multistakeholder consultations on pertinent issues. The Convention calls for promoting digital literacy and skills for all segments of the population, including experts responsible for managing risks.

Each signatory shall adopt or maintain the Convention in a manner appropriate to their domestic legal system. Under the Convention, a state must provide accessible remedies for actual and potential human right violations caused by AI systems and ensure that affected persons have adequate information and possibilities to contest decisions and lodge complaints. Further, a signatory shall adopt or maintain measures, in accordance mentioned principles, to identify, assess, prevent, and mitigate risks posed.

A legally non-binding methodology is being planned for the risk and impact assessment of AI systems, focusing on human rights, democracy, and the rule of law with a deadline by the end of 2024.

LIBERALIZATION OF DEFENSE INDUSTRY: ARMS AND AMMUNITION PERMIT

A sale, import, and export of military equipment and weaponry will be removed from the list of items restricted in civil turnover through amendments to the 2003 Law No. 565-IIQ. The bill passed on 28 June the third, last reading in the parliament. The state duty for obtaining a ten-year license to engage in the following, will be:

June, 2024

for combat-specific military equipment and arms:	for combat ammunition:
design: AZN10,000.00	design: AZN10,000.00
production and testing: AZN50,000.00	production and testing: AZN50,000.00
installation, assembly, repair, and maintenance: AZN12,500.00	repair and maintenance: AZN12,500.00
storage: AZN12,500.00	storage: AZN12,500.00
disposal: AZN10,000.00	disposal: AZN10,000.00

According to the forthcoming amendments to the Tax Code and Law No. 687-IVQ, *On Customs Tariff*, these products will be exempt from the value added tax (upon turnover and importation) and customs duty (upon importation).

June, 2024

**RATIFICATION OF MULTINATIONAL INSTRUMENT OF BEPS
INCLUSIVE FRAMEWORK**

On 24 June 2024, Azerbaijan enacted the Law ratifying the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS MLI). Azerbaijan is a signatory to the BEPS MLI since 20 November 2023. By ratifying, Azerbaijan confirms its commitment to Action 15 the *OECD/G20 Inclusive Framework on BEPS* and reinforces its status of an associate member thereof.

The Convention shall enter into force for Azerbaijan on the first day of the month following a three-calendar-month period from the date of deposit of the ratification instrument.

REGISTRATION AND REGISTER OF ENTITIES, COMPETITION DATABASE



SIGNIFICANT AMENDMENTS TO REGISTRATION OF LEGAL ENTITIES

Law No. 1155-VIQD of Amending Law of Republic of Azerbaijan on Registration of Legal Entities, dated 21 May 2024, introduces important revisions to the rules of registration and registry of entities. These amendments came into force on 8 July 2024.

The amending Law enables local and foreign investors to carry out registration procedures and related processes remotely. It also accelerates the submission of documents and information required by legislation, facilitates the electronic filling of applications, and allows tracking of the process by utilizing e-signature and other relevant modern technologies.

According to the newly added Sub-Section 5.8, information about a fully paid charter capital must be reported to the Ministry of Economy (represented by the Public Tax Service), within five business days.

July, 2024

July, 2024

The Law simplifies the procedures for determining information transparently and accurately concerning persons likely subject to sanctions, pursuant to the Law on Targeted Financial Sanctions. This includes the requirement for a full disclosure of information. The Law also sets provisions regarding the registration of foreign entities, including requirements for consular legalization of documents and certification of translations into the official language of the Republic of Azerbaijan.

The Law specifies that, during the public registration of entities, the expanded legislative requirements concerning their names must be considered (Sub-Section 11.3.3). Additionally, it prohibits the charters of entities (except in cases permitted by legislation) from including provisions that usurp the powers of state bodies or foresee state control functions (Sub-Section 11.3.2-1).

PENALTIES FOR FAILURE TO PAY OR REPORT CHARTER CAPITAL

The bill of amendments as highlighted in our [May 2024 legal update](#) was enacted through the *Law on Amendments to Code of Administrative Violations* and came into force on 16 July 2024.

ELECTRONIC COMPETITION INFORMATION SYSTEM (ECIS)

Pursuant to Presidential Decree No. 133, dated 9 July 2024, the Electronic Competition Information System (ECIS) was established to enhance the administration of competition and consumer rights protection. The Ministry of Economy has been mandated to oversee the formation of ECIS within the next six months.

July, 2024

The primary objectives of implementing the ECIS include, but are not limited to, improving management in relevant sectors, increasing operational efficiency, delivering services more effectively through modern technologies and a unified information system, and simplifying the procedures for obtaining documents and information required by Azerbaijani law.

The ECIS will facilitate the submission and processing of applications from consumers and market participants, enable the real-time retrieval of necessary documents or information from other state authorities upon request, and ensure that decisions and information regarding these applications are provided electronically. This will enhance the accessibility of relevant information for users.

To ensure functionality of the ECIS, it will be integrated with relevant state information resources and systems through the Electronic Government Information System. Necessary measures will be undertaken to host ECIS within the "Government Cloud" (G-cloud) in accordance with the "Government Cloud Concept."

The initiation of the ECIS formation process, following the enactment of the Competition Code of the Republic of Azerbaijan, will ensure that economic activities occur within an independent and robustly competitive environment and that efforts to stimulate competition and de-monopolize the economy are carried out in a technologically advanced setting.

MEDICINES ARE REGISTERED UNDER NEW RULES



NEW RULES FOR REGISTRATION OF MEDICATIONS

Resolution No. 345 of 18 July 2024 of the Cabinet of Ministers approves the *Rules of State Registration, Entry into, and Maintenance of State Register of Medications, Medicinal Substances, and Medical Appliances*. The Resolution repeals effective 20 July the Rules of State Registration and State Register of Medications previously in effect under Resolution No. 108 of 13 July 2007. The new Rules do not require that registrations obtained under the previous Rules be updated (unless nearing expiration).

With reference to the *Law of Medications*, the following are subject to the state registration (market authorization):

- medications, including original medicines and analogues (generics), new combinations of previously registered medicines, medicines with expired registration period, bulk medicines (active pharmaceutical ingredients, APIs), and medicines packaged for medical institutions (institutional drugs);
- medicinal substances; and
- medical appliances categorized by varying levels of risk (higher, high, and (or) medium).

August, 2024

August, 2024

Medications, substances, and appliances are registered with the Ministry of Public Health acting through the Center for Analytical Expertise public entity under the Ministry. The registration requires an expert report issued under the rules governing the respective issuance. The Ministry issues the registration certificate within seven business days of receipt of a positive report.

Upon an application, instructions for use of a medication, substance, and appliance must be translated into the Azerbaijani and the translation notarized. The Center verifies the translation and submits it for approval by the Ministry. Instructions for use of all medicines and substances state-registered in Azerbaijan are displayed on the Center's website in a PDF format.

After passing the state registration, the Ministry of Public Health includes a medicine, substance, and appliance into the state register, enabling their importation, production, sale, and use in Azerbaijan. The state register is maintained by the Ministry through the Center for Analytical Expertise.

A separate registration certificate is issued for each medication, substance, and appliance. The registration is valid for five years.

Grounds for a refusal to state register (re-register) and make changes to a registration are:

- a failure to submit complete or accurate application and package (or to update incomplete application and package);
- a negative expert review by the Center for Analytical Expertise; and
- an inconsistency in the documents submitted for quality, effect, and safety of a medical appliance.

August, 2024

Where a deficiency in the package is identified, the Ministry requests in five business days an applicant to eliminate them. The applicant is obliged to so eliminate in ten business days. The lapse of time to register shall be suspended until all deficiencies have been eliminated and shall resume upon submission of a corrected package.

In case of a refusal to state register (re-register or amend a registration of) a medication, substance, or appliance, an applicant is notified thereof in two business days by registered mail.

Medicines, substances, and appliances with expired registrations are subject to re-registration. To ensure uninterrupted importation, an application to re-register must be made at least 90 days before expiration of the registration.

Amendments to registration documents also require the state registration.

The Ministry may suspend an effective state registration upon inter alia:

- discovering side effects of a medicine; and
- a determination of absence of a therapeutic effect of a medicine or substance.

A new certificate comes into effect on the day next to the day of expiration of a previous certificate (unless the registration is obtained for the first time).

August, 2024

In case of a suspension of the state registration, import, production, sale, and use of the respective medicinal product is likewise suspended. The Ministry of Public Health resolves on withdrawing medicinal products guided by the rules of withdrawal approved by Resolution No. 460 of 27 November 2019 of the Cabinet of Ministers.

The state registration of a medicinal product is cancelled upon inter alia:

- an inadequate pharmacovigilance control by the registrant;
- a negative benefit/risk ratio assessment under the rules of pharmacovigilance control;
- an opinion by the Center that a medicine or substance does not comply with the Good Manufacturing Practices; and
- a discovery of inconsistencies of quality standards of at least three batches of state registered medicinal products.

The cancellation is publicly announced through the press.

LEASING OUT PORTS , RULES OF ORIGIN , CONVERTING DEBT TO EQUITY



RULES FOR LETTING REPUBLIC'S PORTS FOR USE

Pursuant to the *Regulations of Lease of Assets of State-Owned Port Infrastructure through Selection Process*, approved on 13 September 2024 by Resolution No. 421 of the Cabinet of Ministers, the assets are leased to private persons through a selection-bidding process run by a commission. The commission is formed at least 60 days before the selection consisting of a representative from each of the State Service for Property Issues (as a chairman), its relevant local division, the State Agency for Maritime and Ports, the relevant port authority, and the relevant local executive authority. The lease is managed by the State Service for Property Issues acting as a lessor.

The commission publishes terms of a lease at least 30 days before the selection, including: (i) the general conditions, (ii) the address and specifications of the asset, (iii) a bid deposit amount, and (iv) a timeframe for the winner to enter into a lease. The new regulations outline the general requirements (required licenses and permits, no bankruptcy or insolvency proceedings, no tax dues, not a risky taxpayer, and no convictions of a corruption, cybercrimes, terrorism, financing terrorism, or money laundering in the past five years) and specific to an asset (a professional experience, financial capacity, technical capability, and availability of workforce).

September, 2024

September, 2024

Participants must submit the following documents: (a) an application, (b) proof of bid deposit payment, a ten percent of the monthly starting lease fee, (c) a signed/sealed price proposal, (d) for individuals, copies of the tax registration certificate and identity document, for entities, copies of the state registration certificate, charter, and extract from the state registry, (e) required licenses/permits, (f) a certificate (from the Ministry of Justice) confirming no bankruptcy or suspension of activities, (g) documents related to general and asset-specific requirements, (h) financial statements for the last fiscal year, including bank statements for the past twelve months, and (i) an instrument of representation if submitted by agent.

If there are deficiencies in the submission, the commission will so notify an applicant in three days, detailing the necessary corrections that must be made in ten days. If all issues are addressed, a notice of participation in selection will be issued in one business day. If corrections are not made, the participant will be disqualified, and the deposit will be refunded in ten calendar days.

The protocol for the winning bid is approved in three days, with a copy provided to the winner as confirmation for the lease agreement and the results being published in 15 days. The lease agreement must be finalized within 20 days of the protocol approval. Deposits from other participants are returned within ten days of the closure of the selection process.

September, 2024

CRITERIA FOR DETERMINING ORIGIN OF GOODS

Resolution No. 419 of 9 September 2024 of the Cabinet of Ministers amends the Rules of Application of Procurement Preference, previously approved by Resolution No. 495, dated 30 December 2023. According to the amendments, the local origin of goods submitted for public procurement must match any of the following criteria:

- goods fully produced locally, including natural resources extracted within Azerbaijan, such as from internal waters and the Caspian Sea, as well as waste and secondary raw materials (these include products made in outer space on spacecraft of the Republic);
- produced from abovementioned; and
- goods that have undergone sufficient processing in Azerbaijan, resulting in a change of at least at one of the first four digits of the code of commodity nomenclature of goods, or that acquire new characteristics through manufacturing.

If locally sourced goods are used in producing other goods, the origin of the initial materials is not considered to determine the original of a final product.

DEBT-TO-EQUITY SWAP

On 5 December 2023, Law No. 1034-VIQD introduced amendments to the Civil Code, enabling debt-to-equity swaps in specific situations. Following the amendments, where damages inflicted on third parties exceed the charter capital of:

- a limited liability company, the creditor may convert, upon the unanimous consent of shareholders, the claim into an equity and becoming a shareholder thereof; and
- a joint-stock company, the debt can be converted into an equity stake by issuing additional shares for the creditor under a closed placement, matching the amount owed, subject to the approval of at least two-thirds of the voting stockholders.

In both cases, when calculating the damages, expenses related to depreciation deductions for fixed assets are excluded.

FOREX , JURISDICTION



INTERMEDIATION IN FOREIGN EXCHANGE TRANSACTIONS

On 30 September 2024, the Plenum of the Constitutional Court of the Republic of Azerbaijan considered a request by the Saki District Court seeking to clarify the interpretation of Sub-Section 430.4 of the *Code of Administrative Violations* of the Republic of Azerbaijan and Sub-Section 4.3.2-1 of the *Rules of Transactions of Residents of Republic of Azerbaijan in Foreign Currency and Non-Residents in National and Foreign Currency*.

The inquiry from the District Court addresses an advance payment made by an Azerbaijani resident entity, representing an entity in the Russian Federation, to another entity operating in Portugal, with the designated delivery destination in Türkiye. The Court sought clarification on whether the administrative liability, as outlined in Sub-Section 430.4 of the Code, applies to situations where the goods, for which an advance payment is made overseas by a resident entity, are not imported into the country.

In its deliberations, the Plenum examines the conditions under which resident entities transact in foreign currencies under the Law, *On Currency Regulation*. The Central Bank of the Republic of Azerbaijan is responsible for the oversight and implementation of legal regulatory on the subject matter.

October, 2024

October, 2024

As specified in Sub-Section 430.4 of the Code, if goods are not imported or services are not provided within the stipulated timeframe (no longer than 180 days) of the advance payment and the paid currency valuables are not refunded, this situation is deemed an administrative violation. The primary criterion establishing liability under this provision is a failure to submit an import customs declaration. In this case, since the resident had no intention of importing the goods into the country, there is no requirement to submit the customs declaration.

The Plenum did not consider it necessary to adopt a separate Resolution on the appeal in the current situation, considering the presence of an ample legal regulation in the Resolutions of the Plenum, dated 28 February 2020 and 19 December 2019, that apply to the issue at hand.

JURISDICTION OF COURTS

On 9 October 2024, the Plenum of the Supreme Court of the Republic of Azerbaijan adopted Resolution No. 9, which amends Resolution No. 4 of 10 April 2015, *On Jurisdiction of Disputes Arising from Administrative and Civil Legal Relations*.

October, 2024

The Resolution updates the guidelines on administrative and civil jurisdiction, specifying the appropriate courts for various types of disputes:

- the amendment to Sub-Section 6.2 of the Resolution stipulates that disputes involving both the annulment of an administrative act and invalidation and termination of contracts for land allocation should be addressed in an administrative court; however, if the dispute is solely related to the contract, it should be heard in a civil court; and
- the newly introduced Sub-Section 6.3 clarifies that relationships involving the organization, conduct, and documentation of tenders or auctions for state and municipal property, whether leases or ownership, are to be classified as civil-law matters; disputes arising from such relationships should be adjudicated in civil court proceedings; if there is a challenge to the legality of an administrative act in these cases, the matter may be reviewed by an administrative court.

Special rules have been established regarding the jurisdiction of natural monopoly entities:

- according to revised Section 13, natural monopoly entities are generally not considered administrative bodies, except in specific circumstances outlined in the Resolution.

October, 2024

Updated Section 14 provides the following:

- administrative jurisdiction applies to disputes involving regulatory bodies overseeing natural monopolies, which are to be resolved through administrative court proceedings;
- civil jurisdiction applies to disputes of a civil-law nature with businesses and consumers, which should be adjudicated in civil proceedings in either commercial or courts of general jurisdiction; and
- jurisdiction over claims involving tort and in rem rights depends on whether the natural monopoly entity acts in the exercise of public powers assigned to it or as an equal participant in civil transactions; for instance, disputes arising from the exercise of general (public) powers granted by law (such as when designated as an acquiring entity for land for public needs) should be resolved in administrative courts, whereas other disputes should resolve in civil proceedings in civil courts (either commercial or general).

Additionally, courts are encouraged to continue hearing ongoing disputes if conditions of jurisdiction change after the Resolution is adopted, taking into account each case specific circumstances and the extent of prior investigations.

FOREIGN-REGISTERED AIRCRAFT , NEW HOLDING



RECOGNITION OF AIRWORTHINESS OF FOREIGN AIRCRAFT

The Rules of Ensuring Airworthiness and Serviceability of Civil Aircraft Registered in Foreign State and Implementing Requirements for Flight Crew and Flight Documentation are approved by Resolution No. 468, dated 31 October 2024, of the Cabinet of Ministers. The Resolution is passed pursuant to Presidential Decree No. 1 of 15 February 2024 for the implementation of the Law of Aviation. The Rules further refer to the Convention on International Civil Aviation of 7 December 1944 (the Chicago Convention) and its annexes as well as the ICAO Manual of Procedures for Operations Inspection, Certification and Continued Surveillance (Doc 8335, AN/879).

An operator of civil aircraft registered in another state landing in or taking off from Azerbaijan must operate based the operator's certificate and the aircraft must be equipped with appropriate navigation, communication, and surveillance equipment.

Foreign aircraft must have an airworthiness certificate issued by the State, a party to an agreement with the member states of the ICAO, of registry or operator. In the latter case, the responsibility to issue the airworthiness certificate must be transferred from the State of registry of aircraft to the State of operator of aircraft pursuant to Article 83 bis of the Chicago Convention.

November, 2024

November, 2024

The Rules further list the pre-flight measures, necessary documents that must be onboard the aircraft, and requirements for a flight crew.

An operator of foreign-registered aircraft must ensure availability onboard the aircraft of emergency and rescue (fire extinguishers, lifeboats, first aid kits) and flight data recording equipment among others.

Documents onboard the aircraft must include inter alia its registration and airworthiness certificates and NOTAMs (Notices to Air Missions).

Flight crew must have certificates, licenses, as well as documents confirming the medical examination of each member of the crew. Crew members are restricted from taking substances, precursors, and medications that may affect flight safety.

The State Civil Aviation Agency under the Ministry of Digital Development and Transport of the Republic of Azerbaijan is enforcing the Rules.

ESTABLISHMENT OF AZCON

The president of the Republic decreed on 7 November 2024 to establish a new public legal entity, Azerbaijan Transport and Communication Holding (AZCON). AZCON is a single institution to manage state-owned enterprises, business companies with state shareholding in them, and public entities in the transportation and communications industry:

November, 2024

- “Azerbaijan Airlines” Closed Joint Stock Company,
- “Azerbaijan Railways” Closed Joint Stock Company,
- “Azerbaijan Caspian Shipping” Closed Joint Stock Company,
- “Baku Metro” Closed Joint Stock Company,
- “Baku International Sea Trade Port” Closed Joint Stock Company,
- “BakuBus” Limited Liability Company,
- the Baku Shipyard,
- “Space Agency of Republic of Azerbaijan (Azercosmos)” public legal entity,
- “Aztelekom” Limited Liability Company,
- “Azerbaijan International Telecom” (AzInTelecom)” Limited Liability Company,
- “Azerpocht” Limited Liability Company (post service),
- “Baku Taxi Service” Limited Liability Company,
- “Radio-Television Broadcasting and Satellite Communications” Production Unit, and
- entities and enterprises established or held by any of the above.

AZCON’s own operations will be coordinated by its supervisory board (members have already been appointed by the president of the Republic ex officio). Operational management of AZCON rests with its executive director appointed by the president.

The authorized capital of AZCON is set at AZN 10 million.

November, 2024

The powers of a participant of AZCON are divided between the president of the Republic (including among others termination and reorganization of AZCON) and AZCON, itself, vis-à-vis all powers of a participant of a public entity except those reserved for the president of the Republic.

The Cabinet of Ministers is instructed to ensure the state registration of AZCON within three days of approval of the AZCON charter. The Ministry of Digital Development and Transport must draft the charter and submit it to the president of the Republic for the approval before 7 December.

TAX DIGESTS, SHAREHOLDER E-PLATFORM, CRIMINALIZATION



2024 AND 2025 TAX DIGESTS

Law No. 45-VIIQD effective 8 October 2024 extended the value added tax (VAT) exemption on the importation and sale of second- and third-level electric vehicle chargers until 2027.

The bill of 25 November 2024 proposes to amend the Tax Code with effect from 2025. It is expected the bill will be approved before the end of 2024. Among the proposed amendments:

- market owners and managers (except for agricultural commodity markets and cooperatives) must ensure the tenants display their tax identification numbers;
- the difference between the selling and purchase prices of shares (along with related costs) in companies publicly traded at regulated markets, whether within the Republic or abroad, will be treated as a taxable object;
- dividends from technology park residents discharging system integration and software development outside the park will be exempt from the personal income and profits taxes for ten years from obtaining park residency;

December, 2024

December, 2024

- 75 percent of earnings of those with an annual income up to AZN45,000 from software development, project design, translation, advertising, research, science, education, culture, sports, legal, accounting, journalism, market research, valuation, courier (excluding cargo by motor vehicles), and tourism services, and those exporting any services, will be exempt from the personal income tax;
- royalties from intellectual property rights assigned or licensed to theaters, museums, symphonic orchestras, and film production, distribution, and dubbing will be fully exempt from the personal income tax and 90 percent from the profits tax applied along with the land tax exemption for related uses, and those engaged in film production and dubbing will be enjoying a 90 percent personal income tax exemption, until 1 January 2030;
- those engaged in a public-private partnership, as well as those producing electricity procured by the Republic using renewable energy sources, will be exempt from the personal income, profits, property, land taxes, and VAT for the duration of an agreement signed under the Laws, [On Public-Private Partnership](#), and *On Use of Renewable Energy Sources in Electricity Generation*, up to a maximum of 30 years, including the construction period;
- the tax rate on payments made by a non-resident through its permanent establishment from net profits will be reduced from ten to five percent;
- the VAT applicability on domestic and foreign agricultural products calculated based on a trade markup for wholesale and retail sales will be extended until 1 January 2027 with the input VAT paid not being offsetable;
- sales of domestically produced buses and the import of spare parts for them will be VAT-exempt until 1 January 2033, while the VAT exemption on the import of equipment and materials for reconstruction of oil refineries (with an output of at least 3 million tons annually) will be extended for another year;

- ship repairs for non-resident customers will be subject to a zero VAT rate;
- non-resident individuals may receive full refunds of the VAT paid electronically for medical services; the same refunds for theater performances, film screenings, museum visits, and symphonic orchestra concerts are limited to 50 percent; and
- foreign heavy trucks, trailers, and semi-trailers will be exempt from the highway tax until 1 January 2027 where a cargo is transferred from railway to road transport at a designated station in the Republic and transported through the nearest customs checkpoint to another country, or where a cargo is brought in and transferred to railway at the first designated station.

REMOTE MEETINGS OF SHAREHOLDERS

Earlier this December, the Republic first remote general meeting system and electronic voting platform for joint-stock companies was introduced pursuant to the *2024-2026 Development Strategy of the National Deposit Center*. This unprecedented initiative enables shareholders to access meeting details and exercise their voting rights electronically at invp.e-mdm.gov.az. The portal is available in both the Azerbaijani and English.

AZERBAIJAN TAKES ACTION

On 22 October 2024, Law No. 55-VIIQD amended the Criminal Code, criminalizing ecocide, i.e., a deliberate mass destruction of plant or animal life, contamination of the atmosphere, soil, or water resources, or any other actions deleterious to the environment that result in, or pose a substantial threat of, an ecological catastrophe. The action is penalized by an imprisonment for a term ranging from ten to fifteen years.