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Report by AZERBAIJAN on implementation of the QUALITY CHARTER

Law of the Republic of Azerbaijan on entrepreneurial activity as last modified on 28.12.2018

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English - Or. English

Relizin Tarixi: 28.12.2018



Law of the Republic of Azerbaijan On entrepreneurial activity

The present Law shall set out principles of entrepreneurship in the Republic of Azerbaijan, define rights and obligations of subject entities of entrepreneurial activity, forms and methods of its state protection and promotion, relationships of entrepreneurs with the state authorities *and structures, established by the relevant executive authority (hereinafter - structures)*. The Law shall be aimed at creation of conditions for implementation of the principle of equality of all form of property, wide display of economic initiative and business efficiency on the basis of free choice of spheres of activity and adoption of economic decisions.

Chapter I. General provisions

Article 1. Entrepreneurial activity

Entrepreneurial activity shall be the freely exercised activity of person, the main purpose of which is a gaining of profit (income by the individual entrepreneur) from use of property, production and (or) sale of goods, implementation of works or provision of services.

Article 2. Legislation on entrepreneurship

1. Relationships associated with entrepreneurship, irrespective of forms of property, type and sphere of activity, shall be regulated by the Constitution of the Republic of Azerbaijan, Constitutional Act «On state independence of the Republic of Azerbaijan», Constitutional Law «On economic self-sufficiency of the Republic of Azerbaijan», Civil Code of the Republic of Azerbaijan, *the Law of the Republic of Azerbaijan “On the regulation of inspections conducted in the field of entrepreneurship and the protection of the interests of entrepreneurs”*, the present Law and other legislative acts adopted on the basis of those laws.

2. Entrepreneurial activity exercised through the creation of enterprise shall be also regulated by the legislation of the Republic of Azerbaijan on enterprises.

3. Peculiarities of entrepreneurial activity of foreign legal and natural persons in the territory of the Republic of Azerbaijan shall be also regulated by the Law of the Republic of Azerbaijan «On protection of foreign investments» and international obligations of the Republic of Azerbaijan along with legislative acts referred to in *parts 1 and 2* of the present Article.

4. *Relations in connection with entrepreneurship in the Alyat free economic zone are regulated in accordance with the requirements of the Law of the Republic of Azerbaijan “On the Alyat free economic zone”.*

Article 3. Subject entities of entrepreneurship

1. Except for cases provided for in the legislative acts of the Republic of Azerbaijan, the following persons may deal with the entrepreneurship: each capable citizen of the Republic of Azerbaijan; legal persons, irrespective of forms of property; each foreign citizen or stateless person; foreign legal persons.
2. Dealing with entrepreneurial activity by the top officials and specialists of the state authorities *and structures* exercising the settlement of issues associated with entrepreneurial activity or supervision over such activity shall be prohibited.
3. Depending on nature of entrepreneurial activity and relationships with the owner, both the owner himself/herself and subject entity managing the property of the owner with the rights of head of enterprise within the powers defined by the owner may deal with entrepreneurial activity.
4. Relationships between the subject entity managing the enterprise and owner of the property shall be regulated by the agreement (contract) defining mutual obligations, rights and liability of the parties.

Upon the conclusion of the agreement with the person managing the enterprise, its owner may not interfere with the activity of the enterprise, except for cases provided for in the agreement, charter of the enterprise and legislation of the Republic of Azerbaijan.

Article 4. Form of entrepreneurship

1. All forms of entrepreneurship exercised within the framework of the law shall be permitted in the Republic of Azerbaijan. All forms of entrepreneurship shall be equal in rights irrespective of forms of property and organization-legal form.
2. Entrepreneurship exercised individually and jointly may be organized in forms provided for in the law.

Article 4-1. Classification of business entities by criteria

1. *According to the criteria stipulated in paragraph 2 of Article 4-1 of this Law, business entities are divided into subjects of micro, small, medium and large entrepreneurship activities.*
2. *The criteria for the classification of entities of micro, small, medium and large entrepreneurship activities are established by the relevant executive authority.*
3. *State support and benefits aimed at entities of micro, small and medium-sized business activities as part of measures to regulate entrepreneurship are carried out on the basis of criteria provided for by paragraph 2 of Article 4-1 of this Law.*

Article 5. Legal regulation of entrepreneurship limits

1. *Restriction of entrepreneurial activity is allowed only in cases provided by law.*

State power and public administration authorities shall be prohibited to pass decisions providing privileges to one or another type of entrepreneurship depending on its form of property and organizational-legal form.

2. Interference of the state authorities, trade unions with the entrepreneurial activity, except for cases referred to in the legislation of the Republic of Azerbaijan shall be prohibited.

Interference of political parties and public associations with the entrepreneurial activity shall not be permitted.

Chapter II. Rights and obligations of the entrepreneur

Article 6. Rights of entrepreneur

1. For exercise of his/her activity with the compliance with the legislation of the Republic of Azerbaijan, the entrepreneur shall be entitled to:

- create any enterprises, occupy positions in managing authorities and participate in the activity of those authorities;
- acquire, fully or partially, the property of enterprises created in the state form and other form forms of property, other property and property rights
- participate in the activity of other enterprises through the property which is in his/her disposal;
- use the property and objects of intellectual property of other natural and legal persons upon the agreement of the parties;
- hire and fire employees;
- define form and system of remuneration of labor of employees, size of their property and other types of their incomes;
- independently exercise financial and economic activity, select suppliers and consumers of produced products (works, services), exercise works and delivery of products for state needs on contractual basis;
- define prices (tariffs) for his/her products (works, services);
- open accounts in banks for storage of monetary funds, exercise of all types of settlement, credit and cash transactions;
- freely dispose of profit (*income*) from entrepreneurial activity remaining after payment of taxes and other mandatory payments. In the course of exercise of entrepreneurial activity on contractual basis, procedure of distribution of profit (*income*) shall be defined by the contract;
- obtain unrestricted personal income;
- use the state system of social protection, freely select the type of *voluntary* insurance;
- lodge an appeal against the actions of the state and other *structures*, subject entities of the economy and natural persons, which infringe his/her legitimate interests;
- participate in foreign trade relationships;
- manage currency transactions;
- make contributions to the public funds, healthcare, charity, education, for scientific and civil purposes and for rendering required assistance to the state in the course of war and other emergency situations;
- be a member of trade union and other associations.

2. Along with the rights specified in this article, the entrepreneur also has the rights provided for by the Law of the Republic of Azerbaijan “On the regulation of inspections conducted in the field of entrepreneurship and the protection of the interests of entrepreneurs”.

Article 7. Obligations of the entrepreneur

1. The entrepreneur shall be obliged to:

- exercise all obligations arising from the applicable legislation and concluded agreements;

- conclude agreements (contracts) with citizens recruited to the work as well as collective agreements with trade unions acting on behalf of labor collectives in accordance with the legislation of the Republic of Azerbaijan, if required;
- refrain from impeding to association of employees in trade unions;
- pay a salary to employees at the rate not lower than minimal rate defined by the legislation of the Republic of Azerbaijan;
- make, as provided, contributions to *the relevant executive authority* as well as other funds created with the purpose of social protection of employees;
- pay taxes defined by the legislation;
- create work conditions for employees in accordance with the applicable legislation and agreements (contracts);
- take, being guided with applicable normative acts, measures for provision of ecological safety, labor protection, safety regulations, production hygiene and sanitation, protection of architectural and other historical monuments;
- strive for competitiveness of produced products (works, services);
- comply with the requirements for protection of author's rights defined by the legislation;
- *comply with the requirements of the legislation on trademarks and geographical indications;*
- mark manufactured products;
- acquire *specific permission* (license) for the activity which should be subjected to licensing in accordance with the applicable legislation;
- comply with anti-monopoly legislation;
- refrain from use of unfair competition methods;
- submit reports on his/her activity to the state, statistical and financial authorities in the defined form;
- deal with any lawful form of activity which is not provided for in constituent documents or which fails to correspond to purposes taken into account in those documents in terms of war or other emergency situations following to instructions of the competent state authorities.

2. Along with the obligations, specified in this article, the entrepreneur also has the obligations provided for by the Law of the Republic of Azerbaijan “On the regulation of inspections conducted in the field of entrepreneurship and the protection of the interests of entrepreneurs”.

Article 8. Property liability of the entrepreneur

1. Entrepreneur exercising the activity with the establishment of legal person shall bear full or partial property liability, depending on selected organizational form.
2. Entrepreneur exercising the activity without the establishment of legal person shall bear liability for obligations related to that activity with all his/her property.
3. Entrepreneur exercising his/her activity on the basis of the contract shall bear liability for obligations of the enterprise he/she manages in the defined volume. He/she shall bear the same liability for the failure to comply with or unduly compliance with the obligations arising from the contract.
4. List of property, to which the payments may not be directed, shall be defined by the Civil Procedural Code of the Republic of Azerbaijan.

Chapter III. State regulation of the entrepreneurship

Article 9. State support to the entrepreneurship

1. The state shall regulate the entrepreneurial activity through the legislative, administrative, legal, budgetary, tax and monetary systems.

The state shall not permit property and organizational-legal privileged position and inequality in the sphere of use of logistical, financial, labor, informational and natural resources.

For provision of accelerated development of the entrepreneurship, the state shall define vanguard directions of the entrepreneurial activity and system of benefits corresponding to it.

For support of entrepreneurship, the state shall establish informational, consultative, scientific and training centers, financial funds, define preferential rates and other deductions from tax payments which are not taxable, loan shares of the *Central Bank* of the Republic of Azerbaijan, depreciation charges.

2. Obligations and functions of the state for support of the entrepreneurship and its protection shall be exercised by the *relevant body of executive power of the Republic of Azerbaijan*.

3. *In order to provide financial support for the development of entrepreneurship in the Republic of Azerbaijan shall operate a body (structure), established by the relevant executive authority.*

Article 10. State registration of entrepreneurial activity

1. *State registration of persons dealing with the entrepreneurial activity with the establishment of legal person shall be exercised by the relevant body of executive power.*

2. *Admission of the legal person and natural person exercising the entrepreneurial activity without the establishment of legal person to the registration in tax authorities as a tax payer shall be regulated by the tax legislation of the Republic of Azerbaijan.*

Article 11. Entrepreneurial activity requiring the special permission (license)

1. *Some types of entrepreneurial activity shall be exercised in the Republic of Azerbaijan only on the basis of special permission (license).*

List of types of activity requiring the special permission (license) and rules of issuance of special permission (license) shall be approved by the relevant bodies of executive power.

2. *Recognition or non-recognition of special permissions (licenses) acquired by foreign legal and natural persons, branches and representative offices of foreign legal persons in the Republic of Azerbaijan for exercising of respective types of activity in their own countries shall be defined by interstate agreements.*

Foreigners, stateless persons and foreign legal persons shall exercise town city planning activity in the Republic of Azerbaijan jointly with the citizen or legal person of the Republic of Azerbaijan having special permission (license) for such activity, unless otherwise provide for in the interstate agreements of the Republic of Azerbaijan.

Except for cases referred to in the second indent of the present paragraph, acquisition of special permission shall be required for exercise of such activity in all other cases.

3. *Depending on peculiarities of types of entrepreneurial activity, term of issuance of special permission (license) shall be defined by the relevant bodies of executive power.*

Decision on issuance of special permission (license) by the relevant bodies of executive power shall be adopted within the period of 15 days upon the submission of application and documents corresponding to the legislation.

In case of refusal in the issuance of special permission (license), written information with the indication of reasons of refusal shall be issued to the applicant.

In case of reveal of insufficiency of submitted documents and its removal, documents shall be considered within the period of five days from the date of their repeated submission and respective decision shall be adopted.

4. Refusal in the issuance of special permission (license) shall take place in the following cases:

a) in case of failure to submit documents provide for in the Rules of issuance of special permission (license);

b) in case of existence of unreliable or distorted information in documents submitted by the applicant;

c) in case of absence at the applicant of required conditions for exercise of respective type of activity;

d) in case if the applicant has addressed with the purpose of exercise of type of activity requiring certain qualification as well as when attraction of specialists who do not possess respective qualification is foreseen for exercise of that type of activity;

e) in other cases provided for in the legislation.

5. In case of ungrounded delay of receipt of documents submitted for acquisition of special permission (license), failure to issue special permission (license) within terms defined by the present Article or in case when the entrepreneur considers the refusal from the issuance of special permission (license) as ungrounded, he/she shall be entitled to appeal to the respective court.

The court, which has revealed a fact of breach of rights of the entrepreneur, shall adopt a decision on restoration of his/her rights and in respective cases, decision on issuance of special permission (license) to the entrepreneur. Authority issuing a special permission (license) shall be obliged to enforce the decision of the court within the period of three days from the day of its receipt.

Along with this, the court may bring guilty responsible official to liability as provided for in the law.

Article 12. Protection of rights and legitimate interests of the entrepreneur by the state

1. The state shall ensure the protection of rights and legitimate interests of the entrepreneur exercising his/her activity irrespective of form of property and organizational-legal forms, in accordance with the legislation of the Republic of Azerbaijan.

2. Azerbaijani state shall guarantee the protection of rights and legitimate interests of natural and legal persons of the Republic of Azerbaijan in the sphere of entrepreneurial activity in the territory of foreign states.

3. Authorities exercising examination of entrepreneurial activity, their rights and powers shall be defined by the legislative acts.

4. Losses caused to the entrepreneur, including loss of profit as a result of actions of state officials or other *structures* or their officials breaching the rights of the entrepreneur as well

as in consequence of unsatisfactory exercise of obligations provided for in the legislation in respect of the entrepreneur by those *structures* or officials shall be subject to reimbursement by those *structures* and officials as provided for in the civil legislation.

5. Property of the entrepreneur shall be inviolable, except for cases provided for in the *law*.

Property may be seized from the entrepreneur for state needs only in cases and under terms and conditions provided for in the Civil Code of the Republic of Azerbaijan with preliminary payment of compensation equal to its market value.

Article 13. Supervision over the entrepreneurial activity

1. *Supervision* over the entrepreneurial activity should not create obstacles to efficient exercise of that activity. Right of exercise of supervision shall only belong to *authorities and structures* having such rights on the basis of law.

Inspections of tax, anti-monopoly, sanitation, ecological and other *authorities (structures)* shall be exercised only in accordance with their powers.

2. In case of breach of procedure of inspection of entrepreneurial activity by the state authorities and their officials, amount of reimbursement of damage caused to the entrepreneur shall include the salary of employees involved in inspection for the period of inspection, salary of employees within the period of forced suspension of production in connection with the inspection and reimbursement of lost incomes.

3. *Objectives and principles, procedure for organizing and conducting inspections conducted in the field of entrepreneurship, are established by the Law of the Republic of Azerbaijan "On regulation of inspections conducted in the field of entrepreneurship and protection of the interests of entrepreneurs".*

~~**Article 14. Taxation of profit from entrepreneurial activity and personal income of the entrepreneur**~~

~~Taxation of profit from entrepreneurial activity exercised with the establishment of legal person and personal income of the entrepreneur shall be made in accordance with the applicable tax legislation of the Republic of Azerbaijan.~~

~~If taxes or other payments are forcibly levied from the entrepreneur without any grounds or penalties are applied in respect of the entrepreneur for the breach of tax legislation, all unlawfully levied amounts shall be returned with addition of loan interests for that period or shall be regarded to the next tax payments with the consent of the entrepreneur.~~

Article 15. Liability of the entrepreneur

In cases of the failure to comply with the requirements of the legislation of the Republic of Azerbaijan, failure to comply with or unduly compliance with his/her own obligations entrepreneur shall bear civil legal, administrative and criminal liability in accordance with the *law*.

Chapter IV. Suspension of entrepreneurial activity and its termination

Article 16. Suspension of entrepreneurial activity

Decision on suspension of entrepreneurial activity may be adopted by the entrepreneur himself/herself. Authorities responsible for the issues of anti-monopoly activity, taxation, issuance of licenses, ecology, sanitation, architecture, safety regulations and fire prevention

shall be entitled to submit motion on suspension of the entrepreneurial activity. Disputes on such issues shall be settled in courts.

Article 17. Termination of the entrepreneurial activity

1. Decision on termination of the entrepreneurial activity may be adopted by the entrepreneur (owner) himself/herself or by the court.

2. Entrepreneurial activity may be terminated by the court only in cases provided for in the legislation of the Republic of Azerbaijan.

3. In case of death of the entrepreneur, his/her property shall be transferred to his/her heir as provided for in the civil legislation.

4. Entrepreneurial activity exercised on the basis of contract shall be terminated in the following cases:

- upon the expiry of the term of contract;
- upon the mutual agreement;
- by the decision of the court;
- in other cases provided for in the contract and legislation.

President of the Republic of Azerbaijan

Abulfaz Elchibay

Baku city, 15 December 1992

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