

Republic of Azerbaijan

Executive Summary

Based on the statutory requirements alone, Azerbaijan could be described as a country with “open” migration laws as the laws are relatively simple and easy to follow. At the same time, practical implementation of these laws is not always straightforward and consistent. Some employers in strategic market sectors (*e.g.*, oil and gas) will often dispense with special work permit requirements when hiring foreigners, while others (*e.g.*, employment agencies hiring foreign labor) may find it difficult to comply with all legal requirements. That said, with good planning and legal support, employers should be able to comply with all legal requirements.

Key Government Agencies

Visa processing is handled by the Consular Department of the Ministry of Foreign Affairs of Azerbaijan, as well as Azerbaijani embassies and consulates abroad.

The recently created State Migration Service is charged with implementing state policy in the regulation of labor migration. Pursuant to the Presidential Decree *On the Application of the “One-Stop Shop” Principle in the Management of the Migration Process*, dated July 1, 2009, the State Migration Service issues temporary and permanent residence permits, receives work permit applications for forwarding to the Ministry of Labor and Social Protection of the Population (the “Labor Ministry”), and grants and registers the extension of foreigners’ stays.

The Cabinet of Ministers sets annual quotas on the maximum number of foreigners allowed to obtain a work permit in any given year. Other state agencies involved in the regulation of labor migration

include the State Customs Committee and the State Border Service, which register and control entry into and exit from the country.

Current Trends

Most foreigners working in Azerbaijan are involved, one way or another, in oil and gas operations. Given the tendency of “hidden” or “creeping” expropriation in some oil-rich countries, there have been suggestions that Azerbaijan might increase its control over foreign labor. Specifically, with respect to labor migration, the establishment of the State Migration Service in 2007 is believed to be driven by the State’s desire to regulate the foreign workforce more effectively. Shortly after the establishment of the State Migration Service, the regulations on the issuance of work permits to foreign workers were amended to require the State Migration Service’s affirmative opinion as an additional requirement for issuing a work permit.

The state agencies managing the migration process have some overlapping responsibilities. For instance, the Ministry of Interior Affairs still issues temporary registration permits (“pink cards”) which are deemed substituted by temporary or permanent residence permits issued by the State Migration Service. The Ministry of Interior Affairs is continuing to issue “pink cards” in the absence of a law explicitly abolishing the requirement.

In general, despite global trends, Azerbaijan remains a relatively “open” country with a reasonably liberal investment and migration regimes.

Business Travel

A foreign national wishing to enter Azerbaijan must have a personal passport and an official permit (visa). Additionally, all foreigners visiting Azerbaijan for a period of more than 30 days must register

their passports with the local passport registration authorities at the Ministry of Internal Affairs.

Azerbaijani law specifies four types of visa for foreign nationals: entry visas; transit visas; return visas; and exit visas.

Entry Visa

Entry visas grant general entrance into Azerbaijan. There are two types of entry visa: single entry visas; and multiple entry visas.

Single entry visas are issued for periods of three days to three months, permitting a foreign visitor to enter Azerbaijan only once. This visa is usually granted to foreign nationals who come to Azerbaijan for tourism, non recurring business trips or other short-term visits.

Multiple entry visas are issued for periods of one to two years. Foreign nationals working in diplomatic missions, representative offices or consulates of foreign countries or in representative offices of international organizations in Azerbaijan or coming to Azerbaijan to study may obtain multiple entry visas. The family members of foreign nationals receiving multiple entry visas may also receive visas.

Short stay single entry visas (up to 30 days) may be obtained upon arrival from the Visa Section of the Consular Department at the Heydar Aliyev International Airport in Baku.

Single entry visas for tourist purposes require a confirmation, invitation or tourist voucher from the receiving tourist organization or a hotel in Azerbaijan.

Single or multiple entry visas for business, education and employment purposes require an invitation from the receiving party in Azerbaijan sent through the Consular Department. If the invitation from a receiving party is not sent through the Consular Department, the

traveler may submit an invitation received by fax directly from the receiving party in Azerbaijan or an employer request letter.

Entry visas become ineffective if not used during their stated duration.

A foreign national entering Azerbaijan without a visa pursuant to a bilateral agreement with Azerbaijan must obtain an entry visa if the duration of the stay will exceed ninety days.

Transit Visas

Single or multiple transit visas are issued to foreign nationals who travel to other countries through Azerbaijan. The holder of a transit visa is allowed to stay in Azerbaijan for up to five days unless there is a notation on the visa prohibiting such a stay. Some international agreements concluded with Azerbaijan allow transit through Azerbaijan without a transit visa.

Transit visas may also be obtained upon arrival from the Visa Section of the Consular Department at the Heydar Aliyev International Airport in Baku.

Return Visas

Return visas are issued at request of a visitor who visited Azerbaijan on a single entry visa, but left before the visa's expiration. A return visa allows the holder to return to Azerbaijan. A return visa expires if not used within six months of issuance.

Exit Visa

Exit visas are issued to foreign nationals who are permanent residents in Azerbaijan and who wish to leave Azerbaijan.

Visa Issuance Period

Applications of foreign nationals seeking visas with a term of more than thirty days are considered within a month of submission to an Azerbaijani embassy or consulate abroad or directly to the Consular Department. If a foreign national's visit is for urgent medical treatment, serious illness or the death of relative, upon submission of documents confirming this, the visa application is considered within 48 hours.

Visa Waiver

The normal visa requirement is waived for nationals of CIS countries (excluding Armenia [Azerbaijan is technically still in a state of war with Armenia over the Norgono-Karabakh region; therefore, as a practical matter, Armenian citizens may not enter Azerbaijan without special permission] and Turkmenistan), Turkey, Georgia and Bulgaria. Holders of diplomatic and service passports from Hungary, Cuba, Argentina, South Korea, Morocco, Jordan, Mexico and Indonesia may also enter and leave Azerbaijan without a visa.

A foreign national entering Azerbaijan without a visa pursuant to a bilateral agreement with Azerbaijan must obtain an entry visa if the duration of the stay will exceed 90 days.

Temporary Residence

Temporary residence allows foreign citizens to live in Azerbaijan for up to five years on a "temporary" basis. A temporary residence permit is issued by the State Migration Service if the foreigner:

- is a close relative of or married to an Azerbaijani citizen;
- has obtained an individual work permit;

- has enrolled in an Azerbaijani institution of higher education on a full-time basis;
- has invested AZN 500,000 in the Azerbaijani economy;
- maintains AZN 50,000 in an Azerbaijani bank account (As of September 01, 2010, USD 1= AZN 0.8036.); and
- is a “highly-skilled” professional.

Azerbaijani law does not set any definitive criteria as to the qualification of a foreigner as a highly-skilled professional and such qualification is believed to be determined by the State Migration Service on a discretionary basis.

As of the date of publication, the State Migration Service now issues temporary residence permits to only those sole proprietors who maintain AZN 50,000 in an Azerbaijani bank account. The law does not specify whether this amount must be “frozen” for the period of the foreigner’s stay in Azerbaijan or whether the type of account.

Employment Assignments

A foreigner coming to Azerbaijan to work may be required to obtain an individual work permit before starting work.

Eligibility requirements

Work permits are issued by the Labor Ministry, subject to the affirmative opinion of the State Migration Service. By law, a work permit may only be issued if:

- i. the foreign worker is at least 18 years of age at the time of application (in contrast, Azerbaijani citizens under 18 may, in certain circumstances, be employed on a permanent basis);

- ii. no Azerbaijani citizen with adequate professional training is available to fill the job vacancy; and
- iii. state employment agencies are not able or have failed to propose a suitable local candidate to fill the vacancy.

The employer's application should address each of these points. See below for further details on the application process. Only Azerbaijani employers (*i.e.*, Azerbaijani legal entities and sole entrepreneurs, as well as Azerbaijani branches and representative offices of foreign legal entities) are entitled to obtain work permits for their expatriate employees.

Duration

A work permit may be issued for up to one year (most are issued for one year) and may be extended up to four times. Therefore, the cumulative maximum duration of a single work permit is five consecutive years. Extension beyond this term (a repeat work permit) is possible if the foreign employee spends a year outside Azerbaijan after expiration of the cumulative term of the initial work permit or after his/her last employment in Azerbaijan.

As the Labor Ministry determines whether to issue or extend a work permit at its own discretion (within the parameters of the law), the term of the employment agreement with a foreign employee must correspond with the term of the work permit. If the employment agreement is terminated earlier than the originally anticipated termination date, the employing company must inform the Labor Ministry within 5 days. In any case, a work permit will be deemed expired upon termination of the employment agreement.

Transfer to New Job

An employing company may not transfer a foreigner to work on another job within the same company unless a new work permit is obtained for that new job. Similarly, a foreigner may not use his/her work permit to work for a new company unless a new work permit is obtained for that new company.

Exceptions

The following groups of foreign nationals working in Azerbaijan are exempt from the work permit requirement:

Sole proprietors

Foreigners registered as “individual entrepreneurs” (sole proprietors) are exempt from the work permit requirement. A sole proprietorship is defined as independent activity by a physical (natural) person for the primary purpose of deriving profit without establishing a legal entity. A sole proprietor must register with the tax authorities and obtain a tax identification number before engaging in business activities.

Managerial staff

A work permit is not required for the directors and deputy directors of foreign legal entities, their branches or representative offices in Azerbaijan. If, however, a foreign company establishes a subsidiary in Azerbaijan, its foreign directors (managers) and deputy directors will be required to obtain a work permit.

Short term secondees

A foreigner seconded to Azerbaijan for a period of less than three months (90 cumulative days per calendar year as interpreted by the

Ministry of Labor) is also exempt from the work permit requirement. By definition, a secondment suggests that a foreigner has a permanent place of employment outside Azerbaijan. Therefore, it appears that the secondment exemption does not apply unless the foreigner is a genuine secondee.

Mass media workers

Employees of foreign media agencies accredited (seconded) to Azerbaijan are not required to obtain a work permit.

Education specialists

Foreign part time or full time professors engaged by local schools and universities, as well as other scholars involved in scientific research are exempt from the work permit requirement.

Diplomats and international civil servants

Foreigners engaged by their governments in diplomatic or consular services as well as the employees of international organizations such as the United Nations are not required to obtain a work permit.

Others

Other foreigners not required to obtain a work permit include foreigners permanently residing in Azerbaijan, foreigners employed by certain government authorities (*e.g.*, Office of the President, Cabinet of Ministers and Ministry of Defense), foreigners engaged in religious activity as members of registered religious organizations, merchant marines, sportsmen, and artisans and craftsmen.