

Republic of Kazakhstan

Executive Summary

In the Republic of Kazakhstan, the procedures to obtain visas are complicated and time-consuming. Foreigners coming to Kazakhstan for work, studies or living may face a heavy bureaucracy. In addition to work visas, foreign employees must also obtain a work permit.

Kazakhstan recognizes two types of foreigners:

- Foreigners permanently living in Kazakhstan (“Permanent Foreigners”); and
- Foreigners temporarily residing in Kazakhstan (“Temporary Foreigners”).

Permanent Foreigners are those who hold a Kazakhstani residence permit. Permanent Foreigners may work in Kazakhstan without a work permit or a work visa on the same basis as citizens of Kazakhstan. They are also covered by the social and pension schemes adopted in Kazakhstan. In contrast, Temporary Foreigners are those that reside in Kazakhstan on the basis of their national passport and a Kazakhstani visa, and, in order to hire a Temporary Foreigner, an employing company must obtain a work permit.

Subject to certain exceptions, some of which are specifically addressed below, a foreign citizen must obtain a visa before entering to Kazakhstan. There are different types of visas, which depend on the purpose of stay and the status of a foreigner: (1) Diplomatic Visas (up to 2 years); (2) Official Visas (up to 2 years); (3) Investor Visas (up to 2 years); (4) Business Visas (up to 1 year); (5) Private Visas (up to ninety days); (6) Tourist Visas (up to sixty days); (7) Student Visas (up to 1 year); (8) Work Visas (up to 1 year); (9) Medical Treatment

Visas (up to 6 months); (10) Permanent Residence Visas (up to ninety days); and (11) Transit Visas (up to thirty days).

Generally, obtaining a Kazakhstani visa consists of the following two stages:

- I Stage: - obtaining a visa endorsement number from the Consular Service Department (the “Consular Department”) of the Ministry of Foreign Affairs (the “MFA”) in Almaty or Astana city;
- II Stage: - obtaining a visa on the basis of the visa endorsement number from a Kazakhstani Consulate or Embassy abroad.

Key Government Agencies

The Ministry of Foreign Affairs of Kazakhstan (the “MFA”) is responsible for visa processing at Kazakhstani consular posts abroad.

Current Trends

Foreigners violating the migration rules of Kazakhstan may be punished in accordance with Administrative and/or Criminal Law.

Administrative Liability

Depending on the grievance of the violation, a foreign citizen who violates any visa, work permit or migration rules of Kazakhstan, may face the following penalties:

- Administrative fine (up to approx. US\$ 500);
- Forced curtailment of authorized stay in Kazakhstan;

- Administrative arrest (up to fifteen calendar days); or
- Forced deportation from Kazakhstan.

A foreign citizen may be forcefully deported from Kazakhstan only on the basis of a court ruling. Deportees not be allowed to enter Kazakhstan for 5 years from the date of deportation.

A Kazakhstani company that violates the work permit or migration rules of Kazakhstan may face one of the following penalties:

- Administrative fine (up to approx. USD 5,000); or
- Suspension or revocation of the work permit issued to the company.

Criminal Liability

If a foreign citizen does not leave Kazakhstan when told to do so by the migration police, potential penalties include:

- penalty in the amount of approx. USD 1,000 - USD 5,000 (or 5 times monthly salary);
- an administrative arrest (up to 6 months); or
- imprisonment (up to 1 year).

For intentional illegal crossing of the Kazakhstani border, *e.g.*, without a national passport or a proper visa, a foreigner may be penalized as follows:

- administrative fine (USD 2,000 – USD 5,000); or
- imprisonment (up to 2-5 years).

A company manager, who repeatedly violates the work permit rules of Kazakhstan, may be penalized as follows:

- administrative fine (USD 5,000 – USD 9,000); or
- forced community service work (100-240 hours).

Business Travel

Business Visa

A business visa is required if a foreigner is employed abroad and visits Kazakhstan for a short business trip. The permissible activities for the Business Visa include a business meeting or negotiations, attendance of symposiums, conferences, tenders, conclusion of contracts, creation of a joint venture, marketing, participation in exhibitions and fairs, trade operations and international transportation, and consulting and audit services.

A foreigner may work in Kazakhstan on the basis of a business visa for up to sixty calendar days per calendar year. If the foreigner works or stays for business purposes for a longer period, this is deemed to be employment in Kazakhstan. In such cases, the company must obtain a work permit, and the foreigner must obtain a work visa.

Visa Waiver

There are a number of foreign states that have signed international agreements with Kazakhstan, which allow citizens to enter and reside in Kazakhstan without any visa for a certain period of time.

Note that absence of a visa requirement does not necessarily exempt companies that employ the citizens of such countries from the requirement to obtain a work permit. Only Permanent Foreigners are exempted from the requirement for a work permit.

Turkish citizens holding a foreign passport may stay in Kazakhstan without a visa for up to one month. This agreement does not specify whether this one month, visa-free stay period covers a single trip or a series of trips.

Turkish citizens residing in Kazakhstan without a visa are not allowed to work in Kazakhstan during the one month period of their visa-free stay. If the purpose of the stay is business or employment, a Turkish citizen must obtain an appropriate visa for entering Kazakhstan. If the purpose of the stay is employment, his/her company must also obtain a work permit.

The citizens of Russia and some other CIS countries (*e.g.*, Belorussia, Kyrgyzstan, Tajikistan and Azerbaijan) are exempted from the requirement to obtain a Kazakhstani visa.

Moreover, Russian, Belorussian, Kyrgyz, Tajik and Azerbaijani citizens may enter and reside in Kazakhstan with their national passports without a Kazakhstani visa for an unlimited period of time.

Ukrainian citizens, except those who have a residence permit, may reside in Kazakhstan without a visa for up to ninety calendar days from the date of entrance to Kazakhstan. If a Ukrainian citizen intends to stay longer, a Kazakhstani visa must be obtained.

Training

Student Visa

Students, including trainees, must obtain a student visa. Student visas are issued on the basis of the visa endorsement of the MFA. The latter is granted on the basis of petition of a respective educational institution.

Employment Assignments

Work Visa

A work visa is required if a foreigner is employed in Kazakhstan. If the foreigner has a family, members of his family are granted a work visa together with the foreigner's application. A foreigner may be hired by a local or a foreign company, but as long as the employment activities are carried out in Kazakhstan, a work visa is required. As mentioned above, a business trip or a series of business trips that exceed in total sixty days per calendar year can trigger the requirement for obtaining a work visa.

In addition to obtaining a work visa, the employer must also obtain a work permit to hire foreign labor for a position and to hire this particular employee. No foreigner can be hired without a work permit.

It is important to consult the specific Kazakhstani Consulate or Embassy abroad where the work visa application will be filed, as the requirements vary from one country to another.

Secondment

There is another option for staying in Kazakhstan for business purposes on a business visa without a work permit or a work visa. A foreign employee may work in Kazakhstan without a work permit for up to 180 calendar days on the basis of a business visa if seconded to a Kazakhstani company by a foreign company. However, the secondment arrangement will not work unless a Kazakhstani employee is seconded to the same foreign company for the same period of time.

Permanent Residence

Permanent residence visas are also issued on the basis of visa endorsement. In addition, permanent foreigners must receive a residence permit, which allows them to reside in Kazakhstan for an unlimited period of time.

Investor Visa

Investors may obtain a one-entry investor visa without any invitations within one day provided there is a solicitation addressed to a Kazakh consulate from foreign companies. Investor visas are granted to the CEOs and representatives of senior management of foreign firms and companies investing in the economy of Kazakhstan, as well as to the members of their families.

Visa obtaining procedures for participants of the Regional Financial Sector of Almaty city (*e.g.*, dealers, brokers and issuers) and members of their families are simplified and they may obtain one-entry and multiple investor visas within 1 and 5 working days accordingly.

Other Comments

Foreigners violating the migration rules may be punished in accordance with Administrative and/or Criminal Law. Depending on the grievance of the violation, a foreign citizen who violates any visa, work permit or migration rules may face the following administrative liability penalties:

- Administrative fine;
- Forced curtailment of stay in Kazakhstan;
- Administrative arrest for up to 15 calendar days; and

- Forced deportation from Kazakhstan.

A foreign citizen may be forcefully deported from Kazakhstan only on the basis of a court ruling. Deported foreigners will not be allowed to enter Kazakhstan for five 5 from the date of deportation.

A Kazakhstani company that violates the work permit or migration rules of Kazakhstan may face one of the following penalties:

- Administrative fine; or
- Suspension or revocation of the work permit issued to the company.

In addition, there is potential criminal liability. If a foreign citizen does not leave Kazakhstan when told to do so by the migration police, the punishment may include:

- Criminal fine;
- Administrative arrest for up to 6 months; or
- imprisonment for up to 1 year.

For intentional illegal crossing of the Kazakhstani border (*e.g.*, without a national passport or a proper visa), a foreigner may be penalized as follows:

- Administrative fine; and
- imprisonment for up to 2 to 5 years.

A company manager who repeatedly violates the work permit rules of Kazakhstan may be penalized as follows:

- Administrative fine; and
- Forced community service work for 100 to 240 hours.