LAW OF THE REPUBLIC OF AZERBAIJAN

On Investment Activity (https://e-qanun.az/framework/50048)

This Law, in accordance with subparagraphs 1, 10, 11, 13 and 26 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, determines the legal and economic foundations of investment activity in the Republic of Azerbaijan and provides guarantees for the protection of the rights and legitimate interests of investors.

Chapter 1

General Provisions

Article 1. Definitions Used in This Law

1.1. The main terms used in this Law shall have the following meanings:

1.1.1. Investment activity – the aggregate of actions of investors related to investment within the territory of the Republic of Azerbaijan;

1.1.2. Investment – funds, securities, other property, including property rights and other rights having monetary value invested in objects of entrepreneurial activity for the purpose of obtaining income;

1.1.3. Investor – a local or foreign investor carrying out investment activity in the territory of the Republic of Azerbaijan;

1.1.4. Local investor – a citizen of the Republic of Azerbaijan or a legal entity of the Republic of Azerbaijan carrying out investment activity;

1.1.5. Foreign investor – foreigners, stateless persons, foreign legal entities and their branches and representative offices, international organizations, as well as foreign states carrying out investment activity;

1.1.6. Investment project – a set of measures determining the investment and its implementation for carrying out investment activity.

1.2. Other terms used in this Law shall have the meanings defined by the normative legal acts of the Republic of Azerbaijan.

Article 2. Legislation in the Field of Investment Activity

The legislation of the Republic of Azerbaijan in the field of investment activity consists of the Constitution of the Republic of Azerbaijan, international treaties to which the Republic of Azerbaijan is a party, this Law and other normative legal acts.

Article 3. Scope of Application of This Law

3.1. This Law applies to investment activities carried out within the territory of the Republic of Azerbaijan by local and foreign investors.

3.2. Taking into account Article 9 of this Law, making investments is the exclusive right of the investor and is protected by law.

3.3. Investment activity in the Alat Free Economic Zone shall be regulated in accordance with the Law of the Republic of Azerbaijan “On the Alat Free Economic Zone”.

3.4. Investment activity carried out by state bodies shall be regulated in accordance with the procedure approved by the body determined by the relevant executive authority, taking into account the requirements of this Law.

Article 4. Main Principles of State Regulation in the Field of Investment Activity

4.1. State regulation in the field of investment activity shall be carried out on the basis of the following principles:

4.1.1. inviolability of property;

4.1.2. legality;

4.1.3. protection and assurance of human and civil rights and freedoms;

4.1.4. protection of confidential information.

Article 5. Purpose and Main Directions of State Policy in the Field of Investment Activity

5.1. The main purpose of state policy in the field of investment activity is to ensure sustainable economic development through local and foreign investments, to develop competitive production and service sectors, and to promote the application of new technologies and innovations in the economy.

5.2. The main directions of state policy in the field of investment activity are as follows:

5.2.1. formation of a favorable investment environment, including strengthening the environment of free competition;

5.2.2. protection of the rights and legitimate interests of investors as well as investments;

5.2.3. creation of equal opportunities for investors in carrying out investment activity;

5.2.4. ensuring the stability of the conditions for carrying out investment activity;

5.2.5. privatization, restructuring and rehabilitation of state property;

5.2.6. support for investment projects in priority sectors of the economy;

5.2.7. digitalization of services provided to investors related to the implementation of investment activity and provision of such services on the basis of the “one-stop shop” principle.

Article 6. Promotion of Investment Activity

6.1. In order to promote investment activity, the State shall implement the following measures:

6.1.1. establishment of tax and other state payment incentives;

6.1.2. provision of loans on preferential terms;

6.1.3. establishment of special economic zones, industrial parks and other regulated zones;

6.1.4. expansion of the public-private partnership mechanism;

6.1.5. provision of advice and information to local and foreign investors through online platforms regarding the investment potential of the Republic of Azerbaijan, normative legal acts regulating investment activity, investment projects and potential partners, as well as organization of relevant events in this field;

6.1.6. other measures aimed at promoting investment activity.

Article 7. Priorities in the Field of Investment Activity

7.1. Priority shall be given to the following investment projects within the framework of investment promotion measures provided for in Article 6 of this Law:

7.1.1. investment projects aimed at increasing the technological capacity of the economy and the application and development of innovations;

7.1.2. investment projects based on the application of environmentally friendly technologies and providing for environmental improvement and efficient use of natural resources;

7.1.3. investment projects supporting the development of a healthy lifestyle of the population;

7.1.4. investment projects aimed at the development of social infrastructure and various sectors of the economy;

7.1.5. investment projects facilitating the formation of knowledge and skills in accordance with modern requirements;

7.1.6. investment projects supporting regional development.

Article 8. Forms of Investment Activity

8.1. Investment activity may be carried out in the following forms:

8.1.1. establishment and reorganization of legal entities;

8.1.2. acquisition of participation shares (stocks) in legal entities;

8.1.3. establishment of branches and representative offices of foreign legal entities in the Republic of Azerbaijan;

8.1.4. individual entrepreneurship;

8.1.5. conclusion of agreements on the implementation of investment activity;

8.1.6. acquisition of property, including property rights and other rights having monetary value;

8.1.7. other forms not prohibited by the normative legal acts referred to in Article 2 of this Law.

Article 9. Features of Investment Activity

Subject to the requirements of the legislation referred to in Article 2 of this Law, investments may be made in all objects of entrepreneurial activity.

Chapter 2

Rights and Obligations of Investors

Article 10. Rights of Investors

10.1. Investors shall have the following rights:

10.1.1. to freely determine the form of investment activity, the volume of investments, and the field and form of entrepreneurial activity;

10.1.2. to freely determine sources of financing for investment activity that are not prohibited by law;

10.1.3. to suspend or terminate investment activity at any time, taking into account the requirements of this Law and the conditions of the investment agreement;

10.1.4. to own income obtained from investment activity, produced goods, performed works, provided services, property, including property rights and other rights having monetary value;

10.1.5. to reinvest income obtained from investment activity;

10.1.6. with respect to foreign investors, to transfer income and other funds obtained from investment activity abroad in freely convertible currency or in another form after paying taxes and other state payments, in accordance with the Law of the Republic of Azerbaijan "On Currency Regulation" and the investment agreement;

10.1.7. to participate in the privatization of state property;

10.1.8. to obtain from state bodies and local self-government bodies information necessary for carrying out investment activity, the disclosure of which is not prohibited by law;

10.1.9. to exercise other rights provided for in this Law and in the investment agreement.

Article 11. Obligations of Investors

11.1. Investors shall:

11.1.1. carry out activities requiring a license or permit in accordance with the Law of the Republic of Azerbaijan "On Licenses and Permits";

11.1.2. pay taxes and other state payments established by law in accordance with the legislation in force at the time the operations are carried out;

11.1.3. comply with requirements related to the protection of life and health of the population, environmental protection, preservation of historical and cultural monuments, urban planning and construction, labor legislation, technical safety, safety of goods (works, services), fire and radiation safety, as well as national security;

11.1.4. refrain from unfair competition and not harm the rights and legitimate interests of other persons protected by law;

11.1.5. comply with other obligations provided for in this Law and in the investment agreement.

11.2. It is prohibited to impose obligations on investors that are not provided for by the legislation of the Republic of Azerbaijan.

Chapter 3

State Guarantees for Investment Activity

Article 12. Regime Applicable to Investors and Their Investments

12.1. The State guarantees the protection of the rights and freedoms of investors provided for by this Law, and unreasonable and discriminatory treatment, intimidation, persecution and violence against investors and their investments are prohibited.

12.2. Subject to Article 9 of this Law, in similar circumstances foreign investors and their investments shall be accorded treatment no less favorable than that accorded to local investors and their investments (national treatment).

12.3. Subject to Article 9 of this Law, in similar circumstances a foreign investor and its investment shall be accorded treatment no less favorable than that accorded to other foreign investors and their investments (most-favoured-nation treatment).

12.4. The application of the regimes provided for in Articles 12.2 and 12.3 of this Law shall not prevent the application of the laws of the Republic of Azerbaijan for the protection of human life and health, the environment, public order, as well as, in cases of serious threat, the protection of state security and economic interests, provided that such application does not involve discrimination or biased implementation.

Article 13. Guarantees Against Nationalization and Expropriation of Investments

13.1. Except for the requisition provided for in Article 209 of the Civil Code of the Republic of Azerbaijan, investments and investment assets shall not be nationalized or expropriated within the territory of the Republic of Azerbaijan without the consent of the investor, except in cases of acquisition for state needs or, in relation to investments of strategic importance, in order to prevent exceptional circumstances that may harm the interests of the Azerbaijani state and people or contradict the national interests of the Republic of Azerbaijan.

13.2. No discrimination shall be allowed during the nationalization or expropriation of investments by the State. The acquisition of investments for state needs or, in the case of strategically important investments, for the purpose of preventing exceptional circumstances harmful to the interests of the Azerbaijani state and people or contrary to the national interests of the Republic of Azerbaijan shall not be considered discrimination.

13.3. In exchange for nationalization and acquisition of investment by the state, investors shall be compensated, taking into account Article 13.4 of this Law.

13.4. The compensation referred to in Article 13.3 of this Law shall be determined in accordance with the procedure specified in the investment agreement, and if such procedure is not specified, it shall be determined based on the fair market value of the investment immediately prior to the nationalization or expropriation of the investment or prior to the moment when such action becomes publicly known (whichever occurs earlier), and shall be paid without delay, in freely convertible currency for foreign investments and in the currency in which the investment was made for local investments.

13.5. The nationalization or expropriation of strategically important investments in order to prevent exceptional circumstances that harm the interests of the Azerbaijani state and people or contradict the national interests of the Republic of Azerbaijan shall be carried out in accordance with the laws of the Republic of Azerbaijan.

Article 14. Guarantees for the Transfer of Investment Income

14.1. Except for the cases provided for in Article 14.3 of this Law, investment income shall be guaranteed to be transferred abroad from the Republic of Azerbaijan without delay and freely in freely convertible currency in accordance with the Law of the Republic of Azerbaijan “On Currency Regulation”.

14.2. The amounts that may be freely transferred abroad in accordance with Article 14.1 of this Law include the following:

14.2.1. profits, dividends, interest, royalties and other income;

14.2.2. gains arising from the full or partial sale or other disposal of investments, or from the full or partial termination of investment activity;

14.2.3. compensation and damages;

14.2.4. earnings of migrant workers obtained in connection with investment;

14.2.5. other payments not prohibited by this Law.

14.3. Transfers may be delayed or restricted without discrimination or bias in accordance with normative legal acts concerning the protection of creditors’ rights in the field of insolvency and bankruptcy, obligations arising from criminal or administrative liability, the prevention of legalization of funds or other property obtained through criminal means and the financing of terrorism, including the application of targeted financial sanctions, the payment of taxes and other state charges, and the enforcement of court decisions.

Article 15. Settlement of Disputes

15.1. Disputes related to investment activity between state bodies (institutions) and local self-government bodies and investors may be resolved through negotiations, administrative procedures, other out-of-court methods based on mutual agreement of the parties, or through the courts of the Republic of Azerbaijan taking into account the Law of the Republic of Azerbaijan “On Mediation”.

15.2. If the parties have not agreed otherwise, and after the legal remedies provided for in the Civil Procedure Code of the Republic of Azerbaijan have been exhausted, disputes between the Republic of Azerbaijan and a foreign investor related to investment activity may be submitted by the foreign investor to international arbitration.

15.3. If bilateral international agreements on the promotion and reciprocal protection of investments signed between the Republic of Azerbaijan and foreign states provide for dispute resolution procedures different from those specified in this Article, the procedures established by the international agreement shall apply.

15.4. Decisions of international arbitration on disputes related to investment activity shall be recognized and enforced in accordance with international treaties to which the Republic of Azerbaijan is a party and the Civil Procedure Code of the Republic of Azerbaijan.

Article 16. Compensation for Damage Caused to Investors

16.1. Damage caused to investors, including lost profits, as a result of unlawful decisions (administrative acts) and actions (or inaction) of state bodies (institutions), local self-government bodies, or their officials shall be compensated by the Republic of Azerbaijan or the relevant local self-government body.

16.2. Disputes concerning compensation for damage caused to investors shall be resolved in accordance with Articles 15.1 and 15.2 of this Law.

Article 17. Conditions for Suspension or Termination of Investment Activity

17.1. Investment activity shall be suspended by the decision of the investor or in accordance with the laws of the Republic of Azerbaijan and the terms of the investment agreement.

17.2. Investment activity shall be terminated by the decision of the investor or by a court decision, as well as in accordance with the terms of the investment agreement.

17.3. Disputes concerning the suspension or termination of investment activity shall be resolved in accordance with Articles 15.1 and 15.2 of this Law.

Chapter 4

Final Provisions

Article 18. Entry into Force of This Law

18.1. Upon the entry into force of this Law, the Laws of the Republic of Azerbaijan “On the Protection of Foreign Investments” and “On Investment Activity” shall be repealed.

18.2. More favorable conditions granted to investors under the Laws of the Republic of Azerbaijan “On the Protection of Foreign Investments” and “On Investment Activity” shall remain valid for a period of **10 (ten) years** for investors to whom such conditions applied while those laws were in force.

Article 19. Liability for Violation of This Law

Persons who violate the requirements of this Law shall bear liability in cases provided for by the Civil Code of the Republic of Azerbaijan, the Code of Administrative Offences of the Republic of Azerbaijan, and the Criminal Code of the Republic of Azerbaijan.