

Azerbaijan – national procedures for mutual legal assistance on laundering,
search, seizure and confiscation of proceeds of crime (ETS No. 141)
Updated 13/10/2016

The information contained in this table should be updated on a yearly basis.

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| Procedure for search (asset-tracing) and seizure | |
| The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure): | Ministry of Justice of the Republic of Azerbaijan International cooperation department 1, Inshaatchilar avenue, Baku, Azerbaijan, AZ1073 Tel/fax:+99412 539 14 78 contact@justice.gov.az ; emilhuseynov@yahoo.com http://justice.gov.az |
| If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available): | |
| Channels of communication for the request for mutual legal assistance (directly, or other): | Directly or diplomatic channels |
| Means of communication (e.g. by post, fax, e-mail ¹): | Post, e-mail and by fax |
| Language requirements: | Documents supporting such requests shall be accompanied by a translation into Azerbaijani or English. |
| Double criminality requirement, if | If a request is made for action that is not considered criminal according to the legislation of Azerbaijan Republic |

¹ Please indicate if encryption or electronic signature is required.

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| applicable: | rendering of legal assistance will be denied |
| Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods: | In accordance with Article 99-1 of the Criminal Code of the Republic of Azerbaijan funds or other property obtained by convicted person in a criminal way, as well as incomes received on the account of these funds or other property (with the exception of monetary funds or other property and the profits received from them, which shall be returned to the legal owner) are forcibly confiscated by court in favour of the government without compensation. |
| Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.: | Requests on legal assistance in criminal matters shall be made on grounds prescribed by international treaties to which the Republic of Azerbaijan is party and be accompanied with relevant documents. |
| Limitation of use of evidence obtained: | That information or evidence provided by the Republic of Azerbaijan may not, without its prior consent, be used or transmitted by the authorities of the requesting Party in investigations or proceedings other than those specified in the request. |
| Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any: | According to the Law "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism", the financial monitoring organ takes the decision on preliminary freeze of assets in two business days when it receives information in the framework of fight against financing of terrorism regarding sanctions on persons, as well as on assets of legal persons owned or controlled by such persons, as well as physical and legal persons functioning under their instructions or on their behalf. The financial monitoring organ freezes assets for 30 days. |

A copy of the decision on freeze of assets is sent for execution to monitoring participants providing said information or to other persons participating in monitoring, and another copy together with relevant documents is sent immediately to the State Security Service of the Republic of Azerbaijan.

In case of discovery of grounds for criminal prosecution during the investigation, in order to prevent financing of terrorism the State Security Service takes measures in accordance with the Criminal-Procedural Code to stop transactions suspected of financing terrorism or to freeze the assets.

If the provided information does not contain grounds for criminal prosecution, the State Security Service conducts preliminary inspection, and requests the relevant territorial district (city) court to freeze the assets of physical or legal persons 15 days before the expiration of preliminary freezing period set by the decision of the financial monitoring organ, The court issues the decision on freezing of assets before expiration of the preliminary freezing period set by the financial monitoring organ.

The court decision on freezing of assets is sent to the financial monitoring organ and to the person whose assets have been frozen. The person whose assets have been frozen may appeal the decision in courts of higher instance.

When grounds for freezing assets of physical or legal persons are removed, the court issued a decision on cancellation of the freezing measure based on the request made by the person whose assets have been frozen or by the State Security Service.

Additionally, in accordance with Article 177 of the Criminal-Procedural Code (CPC), obtaining information on financial transactions and bank accounts is only enabled by court decision.

According to Article 248 of the CPD, attachment of property is conducted with the aim of guaranteeing the confiscation of property in circumstances provided for under criminal law. Property of the accused and property of other persons who may be held liable with regard to property may be attached, irrespective of what it is or in whose possession it is. If the criminally obtained property

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| | <p>is being used, expropriated or unable to be confiscated in favor of the government, money or other property equivalent to the value of that property is attached.</p> <p>As a rule, property shall be attached on the basis of a court decision. A decision to attach property shall be executed by the investigator during the preliminary investigation proceedings and by the court bailiff during the trial proceedings. The investigator or the court bailiff shall present the decision to attach the property to its owner or holder and request that the property be handed over. If there is a suspicion that the owner of the property is concealing it, the investigator may conduct a search on the basis of an appropriate decision.</p> <p>The attachment of the property shall be conducted in accordance with the sequence established by the Code of Civil Procedure of the Republic of Azerbaijan. An owner or holder of property who is present at the attachment of the property shall be entitled to determine which items are to be attached first, in order to arrive at the sum indicated in the decision.</p> <p>Property attached by court order may be released from attachment only on the basis of a court decision, except where the civil claim in the criminal case is withdrawn, the charges against the accused are altered or the criminal prosecution is discontinued.</p> |
| <p>Available asset management system including preservative measures, (for example prejudgment selling), concerning the seized goods:</p> | <p>The rules and conditions for storage of attached property is regulated by the "Rules and condition for storage of attached property", approved by the Cabinet of Ministers decision dated 06 September 2002 numbered 143.</p> <p>In accordance with those rules, the attached property is handed over to the debtor himself or to other determined persons for storage. The person taking over property for storage issues a receipt confirming this. If the use of property does not result in its damage or decrease in value, the holder may use it with the consent of the bailiff. The bailiff may place limits on right of disposal and use of the property by the debtor. The right of the holder to hand over the property to a third party is limited by the bailiff. Non-compliance with such limits provokes responsibility before</p> |

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| | <p>law.</p> <p>When drawing up the list of attached property the bailiff takes all the legal documents determining the right of ownership, use or lease on all movable and immovable property.</p> <p>When drawing up the list of attached property, all money (in Manats and foreign currency) is confiscated and deposited with the account of the bailiff's organ until the claimant's claim is satisfied.</p> <p>The bailiff draws up a protocol on detachment of property which includes the amount, size, weight, material and other characteristics of the attached property. This information is described in detail in the protocol. The protocol is signed by the bailiff, case witnesses, the debtor or an adult member of his/her family.</p> <p>The attached immovable property and immovable large property are sealed, the bailiff warns the debtor and his/her adult family members that expropriation, damaging or destroying the property constitutes financial and criminal responsibility in accordance with Azerbaijani legislation and that property is given to them for storage.</p> |
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| <p>Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets.</p> | |
| <p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/measures:</p> | <p>Ministry of Justice of the Republic of Azerbaijan International cooperation department 1, Inshaatchilar avenue, Baku, Azerbaijan, AZ1073 Tel/fax:+99412 539 14 78 contact@justice.gov.az ; emilhuseynov@yahoo.com http://justice.gov.az</p> |
| <p>If different from the Central Authority, the authority to which the request should be sent (name of the</p> | |

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| institution, address, telephone, fax and e-mail where available): | |
| Channels of communication for the request for mutual legal assistance (directly, or other): | Directly or diplomstic chsnels |
| Means of communication (e.g. by post, fax, e-mail ²): | Post, e-mail and by fax |
| Language requirements: | Documents supporting such requests shall be accompanied by a translation into Azerbaijani or English. |
| Document requirements and modalities/requirements for the procedure of confiscation: | Requests on legal assistance in criminal matters shall be made on grounds prescribed by international treaties to which the Republic of Azerbaijan is party and be accompanied with relevant documents. |
| Other requirements, if applicable: For example: a link between the proceeds and the criminal offence. In case of money laundering, what are the requirements for the predicate offence(s): | There are no requirements for predicate offences in case of money laundering in the legislation of the Republic of Azerbaijan. |
| Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given: | Such procedure is not envisaged in the legislation of the Republic of Azerbaijan. |
| Procedure for sharing of assets, if applicable: | Such procedure is not envisaged in the legislation of the Republic of Azerbaijan |

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| Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned: | Such procedure is not envisaged in the legislation of the Republic of Azerbaijan |
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| Other particularly relevant information on special types of assistance | |
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| Non Conviction Based Confiscation: | Such procedure is not envisaged in the legislation of the Republic of Azerbaijan |
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| MLA regarding liability of legal persons (criminal, civil or administrative): | The Law "On Mutual Legal Assistance in Criminal Matters" does not envisage any limits on liability of legal persons. |
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| Other information (for example, extended confiscation, confiscation for the purpose of victims): | |
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| Links to national legislation, national guides on procedure: | |