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**INFORMATION PROVIDED IN RESPONSE TO QUESTIONS SUBMITTED BY THE
EUROPEAN COMMITTEE OF SOCIAL RIGHTS (ECSR) TO STATES THAT ARE
NOT PARTY TO THE COLLECTIVE COMPLAINTS PROCEDURE OF THE
EUROPEAN SOCIAL CHARTER (ESC)**

Article 2.1

Pursuant to Articles 89(2) and 89(3) of the Labour Code of the Republic of Azerbaijan (hereinafter, the "Code"), the normal daily working time shall not exceed eight hours, and the normal weekly working time, corresponding to the normal working day, shall not exceed 40 hours. In addition, in accordance with the "List of Industries, Professions, and Positions with Reduced Working Hours (not exceeding 36 hours per week)", approved by the Cabinet of Ministers of the Republic of Azerbaijan by Resolution No. 175 of 6 November 2004, reduced working hours (36 hours) apply to relevant professions and positions in maritime transport and the navy where work is performed under hazardous conditions involving physical, chemical, biological, or other harmful factors detrimental to human health. However, given the occasional need to exceed the stipulated working hours in certain sectors, summarized timekeeping is applied to seafarers. In accordance with Article 96(1) of the Code, summarized timekeeping may be applied provided that the total working time during the accounting period does not exceed the number of working hours established by law. In such cases, the accounting period shall not exceed one year, and the daily working hours (shift) shall not exceed twelve hours.

Article 3.1

In accordance with Article 35(6) of the Constitution of the Republic of Azerbaijan, everyone has the right to work in safe and healthy conditions and to receive remuneration for their work which shall not be less than the minimum wage established by the state, without any discrimination.

According to Article 12(q) of the Code, it is the employer's prerogative to provide the employee with opportunities to engage in physical training and sports, including during and after working hours rehabilitation and professional training, as well as sports and recreational tourism. Furthermore, in accordance with Paragraph 3 of Article 14(1) of the Code, ensuring a safe and healthy working environment is the responsibility of state authorities in the field of labour relations. Article 207 of the Code establishes the employee's right to work in safe and healthy conditions, and the requirements of normative legal acts on occupational safety, occupational safety standards, and regulations are mandatory for the parties to labour relations and other individuals and legal entities. Moreover, under Article 208 of the Code, the occupational safety standards and regulations established by this Code and other normative legal acts must be applied in all workplaces where employees, students and pupils undergoing industrial training, military personnel involved in enterprise work, convicts working in places where court sentences are executed, and individuals involved in eliminating the consequences of natural disasters, as well as those working in wartime or emergency conditions, are employed.

Article 3.2

According to Articles 98(1) and 98(2) of the Code, employees under the age of eighteen may not be engaged in night work. Employees with disabilities may be engaged in night work only with their written consent and taking into account the opinion of the relevant executive authority. In addition, pregnant women, women with children under the age of fourteen, or women with children with disabilities under the age of eighteen (subject to Article 242 of this Code), and men raising children under the age of three alone, may be engaged in night work only with their written consent. Moreover, according to Articles 99(3) and 99(4) of the Code, employees working in particularly difficult and hazardous working conditions, as well as in other cases stipulated in this Code, may not be assigned overtime work. Moreover, in sectors with difficult and hazardous working conditions, the duration of overtime work during any working day (shift) may not exceed two hours. According to the same article, the employer must provide employees engaged in overtime work with production and social and living conditions that meet the standards set out in the "Occupational Safety" section of this Code, and to ensure occupational safety. In accordance with Article 100 of the Code, each employee may not be engaged in overtime work for more than four hours in two consecutive working days, and in workplaces with difficult and hazardous working conditions - for two hours.

According to Article 101(1) of the Code, overtime work is permitted only in the following exceptional circumstances:

- To perform essential work necessary for national defence, or to prevent or eliminate the consequences of natural disasters or industrial accidents;
- To ensure that necessary work is carried out to eliminate the consequences of unforeseen incidents that cause disruption of work and services in water, gas and electricity supply, heating, sewerage, communications and other utilities;
- When it is necessary to complete work in progress which, due to an unforeseen or accidental delay caused by the technical production constraints cannot be completed by the end of a working day and may cause unavoidable damage to or loss of equipment, goods;;
- When it is necessary to perform works related to repair and restoration of broken mechanisms, installations, which caused suspension of work of the majority of employees;
- When it is impossible to interrupt work due to the absence of a replacement worker.

In addition, according to Article 101(2), the employer is obligated to take all necessary measures to replace absent employees with other employees, and to promptly eliminate the causes leading to the engagement of employees in overtime work in the exceptional circumstances stipulated in this article.

Article 102(1) also states that the employer is obliged to maintain accurate and truthful records of each employee's working hours and overtime hours.

Article 165 of the Code regulates the payment of remuneration for overtime work. This article states:

1. Employees are compensated for overtime work at the following rates:

- In case of time-based labour remuneration systems - at least double the hourly (positional) wage rate;
- In case of piecework system of labour remuneration - in the amount of the full wage and additional payment in the amount not less than the hourly (positional) wage of a time-based worker of the corresponding grade (qualification).

2. The employment contract or collective agreement may stipulate higher overtime pay.

3. Overtime work cannot be compensated with additional days of rest.

Furthermore, the Cabinet of Ministers of the Republic of Azerbaijan adopted Resolution No. 74 of 5 April 2001, "On determining the remuneration limits for night work and multi-shift work". According to Sections 1 and 2 of the Resolution, an additional payment is established for night work in the amount of 20% of the hourly (positional) wage rate per hour, and for evening shifts in multi-shift work regimes – in the amount of 20% of the hourly (positional) wage rate per hour, and for night shifts – in the amount of 40% of the hourly (positional) wage rate per hour. In budget-funded institutions and organizations, additional payments for night work and multi-shift work regimes shall be paid at the rates specified in this Resolution; in other institutions and organizations, employees shall be paid not less than these rates. In addition, by Resolution No. 9-1 of the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan (hereinafter, the "Ministry") dated 29 July 2001, an explanatory note "On payment of wages for night work and multi-shift work" was approved.

Article 3.3

According to Articles 212(1) and 212(2) of the Code, a unified state policy on occupational safety is implemented by the relevant executive authorities. These authorities develop and implement this unified state policy, determine the responsibilities of the relevant executive authorities and employers in improving working conditions and ensuring occupational safety, coordinate and oversee their activities in ensuring a healthy and safe working environment. They also organize and coordinate scientific research in the field of occupational safety, implement nationally approved programs in accordance with established procedures, and determine the procedure and conditions for financing these activities. Furthermore, according to Article 215 of the Code, the owner and employer of an enterprise are directly responsible for ensuring compliance with occupational safety standards and regulations in the workplace and must ensure the implementation of the following measures:

- Compliance with all requirements of occupational safety standards, norms, and regulations;
- Compliance with safety standards for buildings, structures, technological processes, and equipment;
- Ensuring that workplaces meet current standards for sanitary-hygienic conditions and occupational safety;

- Provision of employees with necessary sanitary, domestic, medical and preventive services;
- Provision of free therapeutic and preventive nutrition, milk, and equivalent products to employees working in hazardous, difficult, and underground labour conditions;
- Adherence to normal work and rest regimes;
- Provision of employees with complimentary special clothing, footwear, and other personal protective equipment at specified intervals and in the required varieties;
- Organization of training, instruction, and knowledge testing of employees on occupational safety standards and regulations, and promotion of occupational safety;
- Inclusion of occupational safety regulations in the collective agreement and fulfilment of obligations stipulated therein;
- Submission of statistical reports on the results of measures taken to ensure occupational safety, working conditions, and their compliance with current standards in the manner and timeframe determined by the relevant executive authority.

Article 4.3

According to Article 35(2) of the Constitution of the Republic of Azerbaijan, everyone has the right to freely choose their type of activity, profession, occupation, and place of work based on their ability to work.

According to Article 16(1) of the Code, any discrimination of employees on the grounds of citizenship, gender, race, religion, nationality, language, place of residence, property status, social origin, age, marital status, beliefs, political views, membership in trade unions or other public associations, official position, or other factors not related to the professional qualities, professional skills, or work results of an employee, as well as the establishment of direct or indirect privileges and preferences or limitations of rights on the basis of such factors, is strictly prohibited. According to Article 7.2 of the “Law on Ensuring Gender (Men and Women) Equality” (hereinafter, the “Law”), the employer has the following duties:

- treat employees equally and create equal opportunities regardless of gender in recruitment, promotion, professional training and further education, performance evaluation and termination;
- create equal working conditions for employees performing the same work, regardless of gender;
- not to apply different disciplinary measures to employees for the same violation, regardless of gender.

Furthermore, according to Articles 9.1 and 9.2 of the Law, employees working in the same workplace, having the same level of qualification, working under the same conditions, and performing work of equal value should receive equal pay, bonuses, and other material payments intended to incentivize employees, regardless of gender. If remuneration, bonuses, or other material incentives differ, the employer is obliged, at the employee’s request, to justify that the difference in remuneration is not related to the employee’s gender.

According to Article 57(2) of the Code, the scope of the work function is specified in detail in employment contracts, based on the Unified Tariff-Qualification Reference Book approved by the relevant executive authority or determined by the employer. Pursuant to Article 156(2) of the Code, the assignment of performed work to the corresponding tariff (payment) rates, and the determination of job titles and tariff (payment) rates for employees, are carried out in accordance with the current tariff-qualification reference books.

Targeted reforms are being implemented in the Republic to eliminate the pay gap between men and women. The average monthly salary in 2023 was 933.9 manats (compared to AZN 840 in 2022). While in 2020, the average salary of women was 63.3% of the average salary of men, this figure rose to 64.8% in 2021, 67.1% in 2022, and 68.8% in 2023.

Article 5

According to Article 36(2) of the Constitution of the Republic of Azerbaijan, the right of employees working under employment contracts to strike may be restricted only in cases provided for by law.

According to Article 9(k) of the Code, an employee under an employment contract has the right, in accordance with the procedures established by law, to be a member of trade unions and public associations, and to participate in strikes, rallies, meetings, and other mass events not prohibited by law, organized by these organizations or the labour unions. According to Article 11(1)(f) of the Code, in the field of labour relations, the employer has the right to conclude a collective agreement with the labour union or the trade union organizations and to monitor the fulfilment of obligations under this agreement. According to Articles 19(1) and 19(2) of the Code, a trade union organization may be created on a purely voluntary basis, without any distinction between employees and without prior permission from the employer. Employees may join relevant trade unions and engage in trade union activities to protect their labour, social, and economic rights and legitimate interests. The rights, duties, and authorities of trade unions are determined by the Law of the Republic of Azerbaijan "On Trade Unions" and their charters. According to Article 2 of the Law of the Republic of Azerbaijan "On Trade Unions", the legislation on trade unions in the Republic of Azerbaijan consists of the Constitution of the Republic of Azerbaijan, this Law, and other legislative acts related to the activity of trade unions of the Republic of Azerbaijan. In addition, the legislation of the Republic of Azerbaijan shall not restrict the rights of trade unions as provided for in universally recognized norms of international law and in the Conventions of the International Labour Organization and the European Social Charter. According to Article 3 of the abovementioned Law, employees, pensioners, and students have the right to establish trade unions voluntarily without prior authorization and without any distinction, as well as to join trade unions and to engage in trade union activities to protect their legitimate interests and labour, social, and economic rights. To achieve the goals set forth in this Law, at least seven persons have the right to establish a trade union and voluntarily join a relevant trade union organization and adopt its charter.

Article 6.1.

In 1992, Azerbaijan became a member of the International Labour Organization (ILO) and ratified numerous conventions, including ILO Convention No. 144 on “Tripartite Consultations (International Labour Standards)”. The three parties participating in social dialogue are the Government, the National Confederation of Entrepreneurs (Employers) Organizations, and the Confederation of Trade Unions. As a result of tripartite consultations at the national level, with the technical assistance from the ILO, the Labour Code of the Republic of Azerbaijan was adopted in 1999. Following the tripartite discussions, the Ministry prepared the “Charter of the Tripartite Commission on Social and Economic Affairs” and a draft resolution for the establishment of the Commission. In 2014, a tripartite conference was organized by the Ministry in cooperation with the ILO, which resulted in an agreement to finalize the work on bringing the Tripartite Commission to full functionality. In September 2016, the Tripartite Commission on Social and Economic Affairs was established, consisting of representatives of the social partners. Since 2016, General Collective Agreements jointly approved by the Cabinet of Ministers of the Republic of Azerbaijan, the Azerbaijan Confederation of Trade Unions, and the National Confederation of Entrepreneurs (Employers) Organizations of the Republic of Azerbaijan have been approved. The General Collective Agreement for 2023-2025 was approved by Joint Resolution No. 87 of 17 March 2023, of the Cabinet of Ministers of the Republic of Azerbaijan, the Azerbaijan Trade Unions Confederation, and the National Confederation of Entrepreneurs (Employers) Organizations of the Republic of Azerbaijan. According to Article 6.2.8 of the General Collective Agreement, a commitment has been made to make joint efforts to prepare and adopt a draft law of the Republic of Azerbaijan “On Social Partnership” in order to improve social partnership relations and strengthen the legislative and institutional framework. Within the framework of implementing this article, a working group has been established within the Tripartite Commission on Social and Economic Affairs. Work on preparing the initial draft of the law is nearing completion.

Amendments to the Labour Code of the Republic of Azerbaijan, as part of Law No. 1195-VIQD of June 28, 2024, aimed at digital transition, have:

- Established rules for concluding employment contracts in electronic form;
- Abolished employment record books, with the exception of cases stipulated in the Code;
- Abolished collective labour agreements.

Article 6.2.

In accordance with Article 25(1) of the Code, trade union organizations (associations), labour unions, employers, relevant executive authorities, and representative bodies of employers, within their competence, have the initiative to conduct collective bargaining for the preparation, conclusion, and amendment of collective agreements and contracts. The party receiving a written proposal to commence negotiations must start negotiations within 10 calendar days and send a response to the party initiating the collective bargaining, providing information on the representatives who will participate in the negotiations on its behalf. The date on which collective bargaining starts is the day following the day on which the party that initiated collective bargaining

receives the mentioned response letter. Article 26 of the Code regulates the issue of collective bargaining. This article states:

1. To conduct negotiations for the preparation of a draft collective agreement and contract, or amendments thereto, the parties shall establish a commission consisting of equally empowered representatives;
2. The composition of the commission, the agenda of the negotiations, the place, and the duration of negotiations shall be determined by mutual agreement of the parties;
3. The parties are free to choose and discuss the issues related to the content of the collective agreement and contract;
4. At the request of the commission, the parties must provide the information necessary for conducting collective bargaining within five days. The participants in the negotiations shall be liable in accordance with the law for disclosing state or commercial secrets contained in the information received;
5. If the parties fail to reach an agreement during the negotiations, a record of disagreement shall be prepared. The protocol shall contain the final proposals of the parties on the settlement of the disagreement, as well as the deadline for resuming the negotiations.

According to Article 32(1) and (3) of the Code, a collective agreement may be concluded for a period of one to three years, and after the expiry of the specified period, the collective agreement remains in force until a new agreement is concluded, but for a maximum period of three years. In addition, according to Articles 32(5) and (6), in the event of a change of ownership of the enterprise, the collective agreement remains in force for three months.

During this period, the parties shall start negotiations to conclude a new collective agreement or to keep the previous one in force, with additions and amendments. If the enterprise is liquidated or reorganized in the form of a merger, division, or separation in accordance with the procedures and conditions established by law, the collective agreement remains in force throughout the liquidation or reorganization period.

Article 6.4.

In accordance with Article 36, parts I and II of the Constitution of the Republic of Azerbaijan, everyone has the right to strike alone or in association with others, and the right to strike of those working under an employment contract may be restricted only in cases provided for by law.

In accordance with Parts 1 and 2 of Article 270 of the Code, employees have the right to strike either independently or in association with others, and the right to strike arises for employees or a trade union organization when a collective labor dispute occurs.

According to Part 1 of Article 274 of the Code, a strike is led by a strike committee, which is either elected by a general meeting (conference) of the employees or established by a decision of the trade union organization. According to Part 4 of the aforementioned Article, participation in a strike is voluntary. Persons who force someone to participate in a strike or to refuse from

participation by applying force or threatening to apply force or by using their financial dependence shall be held accountable in accordance with the relevant legislation.

In accordance with Article 283 of the Code, an employer may pay full or partial wages to employees who are participating in a strike for the duration of the strike. The refusal to pay wages cannot be a basis for a dispute.

In accordance with Article 281 of the Code, strikes are prohibited in certain service sectors (hospitals, power generation, water supply, telephone communications, air traffic control and firefighting facilities) which are of vital importance to human health and safety. Arbitration shall be mandatory in these sectors if the parties fail to resolve an organizational labour dispute by reconciliation. The prohibition of strikes in the above-mentioned areas of vital significance for human health and safety is in line with international standards.

Article 20

The Labour Code has been amended to expand women's employment opportunities, guarantee gender equality, enable women to work in higher-paying sectors, and protect women's rights in accordance with international labour standards. These amendments were made within the framework of technical support under the World Bank's initiative on "Removing Legal Barriers to Women's Employment in Azerbaijan". The objective was to eliminate gender discrimination and expand women's employment opportunities. The Law "On Amendments to the Labour Code of the Republic of Azerbaijan" entered into force on 5 November 2022, under Law No. 629-VIQD. Following the entry into force of the Law, the Cabinet of Ministers of the Republic of Azerbaijan, by its Resolution No. 172 of 31 May 2023, revoked the list of industries, professions (occupations), and underground works with difficult and hazardous working conditions where the application of women's labour is prohibited. Instead, a list of industries, professions (occupations), and underground work with hazardous and difficult working conditions where the employment of pregnant women or women with children under the age of one is prohibited (204 professions/occupations), and a list of hazardous production factors with which pregnant women or women with children under the age of one are prohibited from coming into contact in the workplace (including 78 hazardous production factors) were approved.

Furthermore, to eliminate gender discrimination, amendments were made to Articles 98 and 242 of the Code based on Law No. 1063-VIQD of the Republic of Azerbaijan dated 22 December 2023, "On Amendments to the Labour Code of the Republic of Azerbaijan". According to this amendment, pregnant women, women with children under 14, and women with children with disabilities are permitted to work at night, work overtime, and be sent on business trips on an equal basis with men, provided they give their written consent.

As a result of recent labour law reforms related to women's employment, Azerbaijan's index in the World Bank's Women, Business and the Law 2024 report has increased by approximately 7 percent, from 78.8 to 85.