

10 questions to a lawyer about recent legislation amendments on the issues of migration and registration of legal entities in the Republic of Kazakhstan and the AIFC

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Amid the geopolitical tension in the region and consequences of the anti-Russian sanctions, offices of many western companies have already relocated or consider the possibility of relocation from Russia to the Central Asian countries. Advantageous location from the geographical viewpoint, developed logistic hubs, low market entry threshold, legal and economic advantages of the jurisdiction of Kazakhstan and the Astana International Financial Centre ("**AIFC**"), as well as the possibility to stay in a familiar language environment, represent a great potential for both setting up of representative offices and migration of regional offices.

As a follow up on our review on business relocation to Kazakhstan issued in 2022¹ and a series of publications dedicated to the issues of registration² and redomiciliation³ of companies to the AIFC, in this article we would like to update the information relating to registration of legal entities in Kazakhstan and the AIFC subject to the new migration requirements of 2024 and, specifically, the necessity for foreigners to obtain an individual identification number ("**IIN**") personally and have a temporary residence permit ("**TRP**") to register a company.

1. *What is dactyloscopy and when foreigners must have their fingerprints taken?*

Dactyloscopy is the taking of fingerprints and palmprints.

On 23 December 2023, Kazakhstan adopted the Law introducing amendments into a number of regulatory legal acts⁴ regulating, among other things, the issues of mandatory dactyloscopy registration of foreigners and stateless persons. These amendments were put into effect on 1 January 2024.

Mandatory dactyloscopy registration was introduced for foreigners and stateless persons reaching the age of 16 in cases, as follows:

- when issuing seafarer identity card of Kazakhstan;
- when executing a permit for temporary or permanent residence in Kazakhstan;
- to obtain a residence permit of a foreigner in Kazakhstan;
- when acquiring the status of an asylum seeker, refugee certificate and/or a travel document;

¹ 10 questions to a lawyer about relocation of business to Kazakhstan
https://online.zakon.kz/Document/?doc_id=39899691.

² 10 questions to a lawyer about registration of companies in the AIFC
https://online.zakon.kz/Document/?doc_id=33346889.

³ 10 questions to a lawyer about redomiciliation of companies
https://online.zakon.kz/Document/?doc_id=36380008.

⁴ [Law](#) No. 50-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of State Corporation "Government for Citizens", International Technological Park "Astana Hub" and Dactyloscopy Registration" dated 23 December 2023.

- in case of deportation outside the Republic of Kazakhstan or readmission in accordance with international treaties ratified by the Republic of Kazakhstan;
- when obtaining visas of the Republic of Kazakhstan.

To introduce data into the system it is necessary to have the fingerprints taken only once.

It is worth mentioning that this requirement has been suspended until 1 July 2025 with respect to execution and issuance of visas in international airports of the Republic of Kazakhstan and visas issued electronically without visiting the foreign establishments of the Republic of Kazakhstan.

If a foreigner already has a valid residence permit, temporary residence permit or a visa as of the date of entry into force of these legislative amendments, it is not necessary to undergo this procedure right now; however, in case of extension, restoration or change of the document, it will be necessary to undergo the fingerprints taking procedure.

The procedure for taking fingerprints is established by the relevant Fingerprint Taking Rules⁵.

To have the fingerprints taken, one must apply to the migration service department at the place of stay in Kazakhstan and, for this purpose, submit IIN and notarized translation of passport if the document is made in a foreign language. After the procedure completion, a foreigner is issued a relevant certificate of the established form.

Employees of the Ministry of Internal Affairs, Ministry of Foreign Affairs and the National Security Committee will provide information for the base in Kazakhstan. Outside the country, fingerprint information of the Kazakhstan nationals will be collected by the employees of foreign establishments of the Republic of Kazakhstan.

According to Article 443-1 of the Administrative Code⁶, refusal to undergo the mandatory dactyloscopy registration entails administrative liability in the form of deportation from the country.

2. What are the changes in the IIN obtainment procedure?

If an employee of a legal entity is a foreign national, he/she must have IIN. This number is assigned by the Ministry of Internal Affairs of the Republic of Kazakhstan.

As per the head, IIN is primarily required to introduce information about the head into the National Register of Business Identification Numbers (such person will be specified as the head in a certificate of a registered legal entity obtained via the egov portal). Furthermore, all systems of governmental agencies are connected to the IIN base (without IIN it will not be possible to obtain a corporate and personal EDS⁷ and, accordingly, use the electronic state services). It is also necessary to open both a personal account in banks in the territory of Kazakhstan (to transfer salary) and, in most cases, a corporate account.

It was previously possible to obtain IIN either online via the portal of the electronic Government or applying to the State Corporation "Government for Citizens" ("**Public Service Center**" or "**PSC**"). However, such opportunity was closed later, but it was possible to obtain IIN in the PSC either personally or by proxy. However, starting 24 February 2024, it became possible to obtain IIN only in case of personal visit of a foreigner to the PSC⁸. An applicant must have a SIM card

⁵ [Decree](#) No. 36 of the Government of the Republic of Kazakhstan "On Approval of the Rules of Dactyloscopy and Genome Registration" dated 31 January 2018 (amended as of 1 January 2024) ("**Fingerprint Taking Rules**").

⁶ Administrative [Code](#) No. 235-V of the Republic of Kazakhstan dated 5 July 2014 (amended as of 11 August 2024) ("**Administrative Code**").

⁷ Personal EDS is also required to register on the [portal](#) of electronic tax invoices used by legal entities.

⁸ [Law](#) 50-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of State Corporation "Government for Citizens", International Technological Park "Astana Hub" and Dactyloscopy Registration" dated 23 December 2023.

with a local number of the mobile operator, to which SMS with the IIN number will be sent. In the PSC, it will also be necessary to pay a state duty for obtainment of IIN.

Starting 13 April 2024, Kazakhstan launched a pilot project on issuance of IIN in all consulates of the Republic of Kazakhstan⁹. Specifically, this was done in connection with the fact that taking of fingerprints and obtainment of visas require IIN.

3. What are the legislation amendments relating to registration of legal entities?

The law dated 16 May 2024 introduced amendments into the Migration Law¹⁰. Specifically, Article 40.2 was set out as follows: *"It shall be prohibited to set up legal entities and participate in the charter capital of for-profit organizations by entering into the composition of participants of legal entities for foreigners failing to obtain entry visas or temporary residence permits as business migrants, except for the immigrants who have a residence permit of a foreigner or a certificate of a stateless person"*.

If this rule had previously contained only a requirement on the presence of C5 category visa for the business migrants, the new amendments affected the individuals of the countries with the visa-free regime (e.g. citizens of the EAEU member states¹¹), and now citizens of these countries need the TRP of a business migrant.

This requirement is rigorously fulfilled by the registrar of for-profit legal entities (Government for Citizens NJSC). We are also aware that the AIFC registrar holds the opinion that the rules of the said law apply to the AIFC.

The requirement on presence of the TRP does not apply in case of setting up a legal entity with another legal entity acting as a founder and in case of record registration of branches/representative offices of foreign legal entities and a Recognised Company in the AIFC.

4. What is the procedure and timeline for obtaining the TRP?

The TRP Issue Rules¹² provide for the following list of documents and information requested from a service recipient for the purpose of providing a state service:

- application form for the TRP in accordance with Schedule 1 to the TRP Issue Rules;
- copy of the identification document of a foreigner with whom Kazakhstan ratified the visa-free stay agreements (original must be submitted for collation);
- copy of medical insurance (original must be submitted for collation) (except for the citizens of the EAEU member states);

⁹ Joint [Order](#) No. 11-1-4/113 of the Acting Minister of Foreign Affairs of the Republic of Kazakhstan dated 19 March 2024, No. 246 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 19 March 2024, and No. 166/HK of the Minister of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan dated 19 March 2024 "On Implementation of a Pilot Project on Provision of the State Service "Formation of an Individual Identification Number for Foreign Citizens at the Foreign Establishments of the Republic of Kazakhstan".

¹⁰ [Law](#) No. 477-IV of the Republic of Kazakhstan "On Population Migration" dated 22 July 2011 (amended as of 22 July 2024) ("**Migration Law**").

¹¹ EAEU (Eurasian Economic Union) is an international organization of regional economic integration created to ensure free movement of goods, services, capital, and labor force among the member states. The EAEU is composed of Russia, Kazakhstan, Belarus, Armenia, and Kyrgyzstan. The key purpose of the Union is to create a unified economic space contributing to the development of economy, trade and cooperation among the member states.

¹² [Rules](#) of Issuing Permits for Temporary and Permanent Residence in the Republic of Kazakhstan to Foreigners and Stateless Persons, as approved by the Order No. 992 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 4 December 2015 (amended as of 3 August 2024) ("**TRP Issue Rules**").

- notarized consent to residence of an immigrant in case a service recipient is not an owner of the dwelling provided to the immigrant for temporary residence;
- certificate of dactyloscopy registration of a foreigner.

Depending on the subtype of a state service, it may be necessary to submit additional documents. For example, to obtain the TRP to carry out labor activities it is necessary to submit:

- foreign labor engagement permit issued by the local executive authority (if applicable);
- for the EAEU citizens – employment contract registered with an authorized agency (Ministry of Labor and Social Protection of Population) in the Unified Accounting System of Employment Contracts ("**UASEC**"¹³) or a civil contract for the performance of work (provision of services).

To issue the TRP to foreigners (business migrants) to carry out entrepreneurial activities it is necessary to submit the following documents (Schedule 1-1 of the TRP Issue Rules and Article 35 of the Migration Law):

- medical certificate confirming absence of the diseases preventing from labor activities (medical certificate form 028/y)¹⁴;

The list includes drug addiction; psychological disorders (diseases); tuberculosis; leprosy (Hansen disease); sexually transmitted infections (STIs), syphilis, venereal lymphogranuloma (donovanosis), chancroid; acute infectious diseases (except for acute respiratory virus infections and flu).¹⁵

Legal practitioners recommend obtaining such certificates in the Republic of Kazakhstan in any commercial medical center.

- medical insurance covering primary medical care and specialized urgent inpatient medical care on the conditions determined by agreement of the parties in complying with the minimum requirements established by laws of the Republic of Kazakhstan;
- confirmation of presence or absence of a criminal record and prohibition to carry out entrepreneurial activities based on a court judgment in the country of nationality and/or permanent residence, issued by a competent authority of a relevant state.

Such certificate must be made on paper and must bear a seal of an authorized agency of the country of nationality of a foreigner. Unfortunately, most questions of foreigners relate to this very document. In practice, foreigners eventually obtain such certificates or a certificate that no such document is issued.

It is worth mentioning that the TRP Issue Rules were amended on 19 July 2024, and such amendments **entered into force starting 3 August 2024**. The amendments excluded the requirement on obtainment of a document issued by a local executive authority of the Republic of Kazakhstan (this document has never been issued, since its issue mechanism was not adjusted, but it was supposed that this could be an application from the Entrepreneurship Administration of a relevant Akimat).

¹³ Unified Accounting System of Employment Contracts <https://hr.enbek.kz/>.

¹⁴ [Order](#) No. ҚР ДСМ-175/2020 of the Minister of Health of the Republic of Kazakhstan "On Approval of the Forms of Record Documents in the Healthcare Sphere and Instructions on How to Fill Them Out" dated 30 October 2020 (amended as of 20 June 2024).

¹⁵ [List](#) of diseases, presence of which prohibits foreigners and stateless persons to enter the Republic of Kazakhstan, as approved by the Order No. 664 of the Minister of Health of the Republic of Kazakhstan dated 30 September 2011.

However, the Rules of Stay¹⁶ still contain a reference to an application of a local executive authority (paragraph 10).

The term of considering application for the TRP is 1 business day (paragraph 9 of the TRP Issue Rules).

5. Is it possible to obtain the TRP and register a legal entity on the basis of a power of attorney?

The TRP Issue Rules establish that in order to obtain the TRP state service a service recipient must apply at the place of registration to the territorial police authority or to the PSC, or visit the portal and file an application for the TRP.

Provision of the state service requires personal presence of a service recipient or an attorney acting under a notarized power of attorney, or under an order or a power of attorney of a legal entity to take the actions stipulated by the powers.

Thus, it is possible to submit documents for the TRP under a power of attorney. However, the TRP Issue Rules establish that an authorized employee of the governmental authority must verify information on the foreigner's crossing of the state border of Kazakhstan based on the data from the UIS "Berkut" (paragraph 9-1 of the TRP Issue Rules). Accordingly, an applicant must be physically present in Kazakhstan during the period of considering the application for the TRP.

As regards registration of legal entities, the Migration Law and the rules of the Legal Entity Registration Law¹⁷ are inconsistent with each other. Thus, Article 40.2 of the Migration Law establishes that a business migrant must register a for-profit organization in Kazakhstan or become a participant (shareholder) of a for-profit organization carrying out activities in the territory of Kazakhstan within 2 months of the date of entering Kazakhstan. However, the Legal Entity Registration Law provides for the exhaustive list of documents to be submitted for registration of legal entities. It is prohibited to request for any documents and information other than those specified in the list (Article 6).

According to the position of a field-specific governmental agency of 2021, a legal entity could be registered without the entry of founders to the territory of Kazakhstan, and foreigners could set up legal entities without the C5 category visa¹⁸. However, the state revenue authority had a different opinion and there were cases of filing claims for invalidation of registration of legal entities (including in case of registration on the basis of a power of attorney), but the court did not always uphold the governmental agency's position, and we are aware of the cases where the stated claims were dismissed¹⁹.

However, after introducing amendments into Article 40 of the Migration Law (since it is possible to obtain the TRP only at the arrival), it became obvious that the state wants to filter the shadow companies, which have no actual intention to carry out activities in Kazakhstan and provide benefit for its society and economy.

¹⁶ [Rules](#) of entry and stay of immigrants in the Republic of Kazakhstan, and exit from the Republic of Kazakhstan, and the Rules for exercising migration control and registration of foreigners and stateless persons illegally crossing the state border of the Republic of Kazakhstan, illegally staying in the territory of the Republic of Kazakhstan, and persons prohibited to enter the territory of the Republic of Kazakhstan, as approved by the Decree No. 148 of the Government of the Republic of Kazakhstan dated 21 January 2012 (amended as of 12 February 2024) ("**Rules of Stay**").

¹⁷ Law No. 2198 of the Republic of Kazakhstan "On State Registration of Legal Entities and Record Registration of Branches and Representative Offices" dated 17 April 1995 (amended as of 17 July 2024) ("**Legal Entity Registration Law**").

¹⁸ [Letter](#) No. 8-8-3-33/ЖТ-М-149 of the Migration Service Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan dated 30 April 2021 (available in ILS "Paragraph").

¹⁹ For example, please see the judgment No. 7527-21-00-2/4314 of the Specialized Inter-District Economic Court of Almaty dated 15 July 2021 (available in the judicial office at <http://office.sud.kz/>).

At the same time, Kazakhstan ratified the Eurasian Economic Union Treaty on 14 October 2014²⁰. Paragraph 24 of Annex 16 (on trade in services, establishment, activities and investments) to the EAEU Treaty establishes that each member state must provide the persons of any member state with the regime relating to establishment and activities not less favorable than the regime provided under the same (similar) circumstances to its own persons in its territory. Thus, we believe that the amendments introduced into Article 40 of the Migration Law violate the provisions of an international treaty ratified by Kazakhstan, which prevails over the national legislation due to the Law on Legal Acts²¹.

This is not the only change. If a representative acting under a power of attorney could previously submit the documents for registration, and a foreigner could stay in his/her country, now it is not sufficient to obtain the C5 visa/TRP, it is necessary to stay in the Kazakhstan territory in the course of registration of a legal entity (because the registration authority's system is now connected to UIS "Berkut" of the border service for automatic verification). Accordingly, a person holding the C5 visa/TRP must also stay in the territory of Kazakhstan until the legal entity is registered (about 2 days).

In addition, the registration authority now requests for submission of IINs of the non-resident founders (previously there was no such requirement). However, we previously mentioned that IIN is now required even at an earlier stage, specifically, for the purpose of dactyloscopy registration and obtainment of the TRP (paragraph 9-1 of the TRP Obtainment Rules).

Furthermore, 7 January 2025 will mark the entry into force of the amendment to Article 6 of the Legal Entity Registration Law introduced by the Law dated 5 July 2024,²² pursuant to which state registration of legal entities with foreign participation requires a copy of a passport of a foreign founder with notarized translation into the Kazakh and Russian languages and a document confirming the right to register a for-profit organization in Kazakhstan in accordance with the Migration Law. This is to say that the registration authority's requirement to have the C5 category visa or TRP of a business migrant will be completely legal.

6. Is it necessary to obtain BIN for a non-resident founder?

It is not necessary to obtain BIN of a non-resident for a founder.

Although, when filing an application to the PSC, there is a BIN field, it is normally left empty.

First, neither the Legal Entity Registration Law, nor any other act establishes the necessity to obtain BIN of a non-resident. Second, the tax form for tax registration²³ has no such ground as registration of a legal entity. Third, absence of the requirement to obtain BIN of a non-resident has many times been confirmed by the justice authority,²⁴ and at the time of writing this publication the registration authority's opinion is the same.

At the same time, certain companies obtain IIN for the head of a non-resident company and BIN of a non-resident so that to be able to obtain an electronic digital signature (EDS) and file an online application for registration of a legal entity on the portal of the electronic Government²⁵.

²⁰ Treaty on the Eurasian Economic Union dated 29 May 2014 ("**EAEU Treaty**").

²¹ [Law](#) No. 480-V of the Republic of Kazakhstan "On Legal Acts" dated 6 April 2016 (amended as of 19 June 2024).

²² [Law](#) No. 115-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of State Control and Statistics, Improvement of the Population Protection System, Data Management, Registration of Legal Entities, and Exclusion of Excessive Legislative Regulation" dated 5 July 2024.

²³ [Order](#) No.160 of the Minister of Finance of the Republic of Kazakhstan "On Approval of the Forms of Tax Applications" dated 12 February 2018 (Annex No. 8).

²⁴ Answer of the Minister of Justice of the Republic of Kazakhstan dated 22 September 2014 to the question No. 290498 dated 15 September 2014 (available in ILS "Paragraph").

²⁵ Electronic Government portal www.egov.kz.

We previously mentioned that a foreigner may obtain IIN in consular institutions. A non-resident company may obtain BIN either by applying to the tax authority, or on the website of the state revenue authority.²⁶ EDS may be obtained in the PSC and consulates of Kazakhstan²⁷ in case of presence of IIN/BIN of a non-resident.

However, such approach is not completely justified, since it is not effective from the standpoint of time expenditures. Furthermore, obtainment of BIN of a non-resident is associated with the translation of a great number of documents (articles of association, abstract from the trade register, passport of a director, power of attorney) as compared with the situation of submission of documents for registration of a legal entity under the "one stop" principle (where it is sufficient to submit an abstract and a power of attorney).

Furthermore, Kazakhstan is currently considering the issue of introduction of biometric identification.²⁸ We do not exclude that in this case a foreign founder will have no possibility to use EDS, since biometric identification primarily implies connection between EDS and a number of a mobile telephone of a Kazakhstan service provider and registration of such number in the Kazakhstan Base of Mobile Citizens ("**BMC**").

The most productive approach was proposed by the developers of the e-Residence portal²⁹ where the companies are registered in the AIFC. An application is signed there using EDS of an applicant who is an individual instructed to register a company in the AIFC on the basis of a resolution of founders. The applicant, directors, shareholders who are individuals, and beneficial owners undergo the KYC procedure (photo verification). It is possible to get verified from any computer or smartphone, and signing of an application by EDS confirms validity of the submitted information.

7. Is the "Russian doll rule" effective in Kazakhstan?

According to Article 10 of the LLPs Law³⁰, a limited liability partnership ("**LLP**") may not have another economic partnership consisting of one person as its sole participant. This rule of the LLPs Law is set out in an unclear manner and gives rise to inconsistent interpretation in practice.

We are aware of different opinions on this issue of the officials holding the post of the Minister of Justice at different times. In 2010, the Minister of Justice commented on this Article that its provisions must not apply to foreign legal entities. Literally, his answer was as follows.

According to Article 1 of the Law on Partnerships, recognized as an economic partnership shall be a for-profit organization, which is a legal entity with the charter fund divided into contributions (shares) of founders (participants) with the key purpose of its activities to derive income. Economic partnerships may be set up in the form of a full partnership, commandite partnership, limited liability partnership, and additional liability partnership. A foreign legal entity does not fall under the concept of an economic partnership under the laws of Kazakhstan. Accordingly, provisions of Article 10 of the LLPs Law do not apply in this case³¹.

We are also aware of other (contradictory to the above interpretation) positions of the ministers on this issue, which change from time to time, but this did not affect the practice, and the registration authority always registered LLPs without regard to this rule. We believe that one of

²⁶ Registration of taxpayers https://egov.kz/cms/ru/services/taxation/2f39_mf.

²⁷ Obtainment of EDS in foreign establishments of the Republic of Kazakhstan <https://pki.gov.kz/posolstva/>.

²⁸ "Kazakhstan wants to prohibit issuance of EDS on information carriers" // News dated 8 August 2024 on the Vlast portal <https://vlast.kz/novosti/61298-vydacu-ecp-na-fajlovyh-nositelakh-hotat-zapretit-v-kazahstane.html>.

²⁹ E-Residence portal <https://digitalresident.kz>.

³⁰ Law No. 220-I of the Republic of Kazakhstan "On Limited and Additional Liability Partnerships" dated 22 April 1998 (amended as of 17 July 2024) ("**LLPs Law**").

³¹ Answer of R. T. Tussupbekov, Minister of Justice of the Republic of Kazakhstan, dated 26 July 2010 to the question No. 45784 dated 16 July 2010 (available in ILS "Paragraph").

the reasons was that the registrar could not always see the structure from an abstract from the trade register or any other document on the founder.

However, starting 2023, the registration authority and the justice authority³² started interpreting the said rule prohibiting to set up the "Russian doll" companies in a different manner. Now the registrar believes that this rule relates to all persons, including foreign.

To date, the opinion of the Minister of Justice of 2010 is disregarded, because such letters are not of normative nature.

Although this rule has been in effect since 1998, it is still unclear what should be done with the LLPs registered during the period the former opinion of the Minister of Justice was in effect.

Furthermore, according to the existing practice, employees of the registration authority often do not understand who must be referred to a "beneficial owner"³³ and, in case of specifying one individual in an application for state registration of a legal entity³⁴ in the field "beneficial owner", they often believe that an LLP is a "Russian doll" company and reject registration until submission of additional clarifications. The applications for the state registration did not previously contain the "beneficial owner" field (it has appeared several years ago).

A solution in a situation where a founder is composed of one person may be either (i) admission of another minority participant in the LLP composition, or (ii) submission of a document to the registration authority, which does not disclose the full ownership structure, because, according to legislation, it is necessary to submit a "copy of a legalized abstract from the trade register or any other legalized document certifying that the founder, which is a foreign legal entity, is a legal entity under the laws of a foreign state, with notarized translation into the Kazakh and Russian languages" (Article 6 of the Legal Entity Registration Law).

8. Is it necessary to obtain a work permit and work visa?

It is not necessary to obtain a foreign labor engagement permit ("**Foreign Labor Permit**") for the persons working as the chief executive officers of the Kazakhstan legal entities and their deputies with 100% foreign participation in the charter capital. A Foreign Labor Permit is not required for all categories of employees in a company registered in the AIFC.³⁵ However, if the period of a business trip to another region of the Republic of Kazakhstan is more than 90 days, it will be necessary to obtain the Foreign Labor Permit in this region (Article 37-1.3 of the Migration Law, paragraph 38 of the Rules of Issuing Permits to Employers^{36,37}). Otherwise, an employer may be imposed administrative liability in the amount from 100 to 700 MCI³⁸ (Article 519.1 of the Administrative Code).

At the same time, provisions of the EAEU Treaty apply with respect to the citizens of the EAEU member states, which ensure free movement of citizens within the EAEU and, according to which, employment of the citizens of the EAEU member states in Kazakhstan does not require

³² Answer No 3T-2023-01589800 of the Ministry of Justice of the Republic of Kazakhstan dated 11 September 2023.

³³ Beneficial owner is an individual holding, directly or indirectly, more than 25% participatory interest/shares. If it does not seem possible to establish a beneficial owner (e.g. in funds, trusts, public companies), according to Article 5.3.2-2) of the AML/CFT Law, it is allowed to recognize a sole executive body of a legal entity as a beneficial owner.

³⁴ [Rules](#) of providing state services in the sphere of state registration of legal entities and record registration of branches and representative offices, as approved by the Order No. 66 of the Minister of Justice of the Republic of Kazakhstan dated 29 May 2020 (amended as of 11 June 2024).

³⁵ [List](#) of persons that do not need a permit from the local executive authority for foreign labor engagement to carry out labor activities, as approved by the Decree No. 1041 of the Government of the Republic of Kazakhstan dated 24 November 2023 ("**Foreign Labor List**").

³⁶ [Rules](#) and conditions of issuing or extending permits to employers for foreign labor engagement and intra-corporate transfer, as approved by the Order No. 279 of the Deputy Prime Minister - Minister of Labor and Social Protection of Population of the Republic of Kazakhstan dated 30 June 2023 (amended as of 28 February 2024) ("**Rules of Issuing Permits to Employers**").

³⁷ [Guidance](#) on the Conditions of Stay of Seconded Foreign Employees of AIFC Participants.

³⁸ Monthly calculation index – starting 1 January 2024, it is KZT 3,692.

obtainment of the Foreign Labor Permit (Articles 28.2 and 97.1 of the EAEU Treaty and paragraph 9 of the Foreign Labor List).

Meanwhile, in order for a citizen of a EAEU member state to stay in Kazakhstan for more than 90 days it is necessary to obtain the TRP (paragraph 6 of the Rules of Stay). The TRP must be obtained within 30 calendar days after arrival of a foreign employee (Article 97.6 of the EAEU Treaty).

To enter, stay and work in the territory of the Republic of Kazakhstan a foreign employee must obtain a C3 category visa. Visa is issued on the basis of an application (invitation) of an employer by the foreign establishments of the Republic of Kazakhstan or in international airports after arrival in Kazakhstan³⁹. It is also possible to obtain visa under the “one stop” principle in the Expat Centre of the AIFC⁴⁰ (e.g. if a foreign employee arrived in Kazakhstan under another visa category⁴¹).

According to the general rule, work visas are issued on the basis of an employment contract and for the effective term of the Foreign Labor Permit, but for no more than 3 years (Article 36.1 of the Migration Law, paragraph 49 of the Visa Issue Rules⁴²). As regards the employees of the AIFC participants, visa is issued without the Foreign Labor Permit and for a term of up to five (5) years (Article 7.2 of the AIFC Constitutional Law⁴³).

At the same time, a work visa or the TRP for an employee carrying out labor activities is required in case of directly staying in the territory of Kazakhstan.

However, neither the Migration Law, nor the Legal Entity Registration Law establishes that a foreigner may not be appointed to the position of a head without a work visa. Thus, a foreigner may be appointed as a head from the moment of state registration of a legal entity (i.e. may be introduced into the base of legal entities as a chief executive officer of a legal entity from the moment of its incorporation).

The Labor Code⁴⁴ establishes that it is not allowed to enter into an employment contract with a foreigner before an employer obtains the Foreign Labor Permit (Article 26.1). Absence of a visa does not serve as an obstacle for entering into an employment contract. The Labor Code provides for the possibility of remote work (Article 138 of the Labor Code). Accordingly, when staying in his/her country, the head may legally act on behalf of a legal entity, sign the required documents as the head, and issue powers of attorney for the authorized persons in Kazakhstan for obtainment of consent of the MIA.

Furthermore, according to the Visa Issue Rules, a C3 visa is issued on the basis of an invitation (Annex 1, paragraph 29). We are also aware that it is normally required to submit a copy of an employment contract. A consulate may not request for any other documents or cast doubt on legality of the fact of holding the position of a head of a legal entity. However, it is worth mentioning that certain employees of consulates of the Republic of Kazakhstan abroad refer to the fact that a foreigner must obtain a work visa before registration, which completely contradicts legislation, because a visa should be executed from a legal entity where the foreigner contemplates to work.

³⁹ Expat Centre [Guidebook](#) – 2024.

⁴⁰ AIFC Expat Centre (<https://expatcentre.aifc.kz/en>).

⁴¹ The Ministry of Internal Affairs of Kazakhstan issues, cancels, restores, extends or reduces the term of validity of a C3 visa, and changes the C3 visa for the family members to the C3 visa for carrying out labor activities without regard to the previously issued primary visas for the participants and bodies of the AIFC, employees of participants of the "Astana Hub" or the employees of the "Astana Hub" (paragraph 23 of the Visa Issue Rules).

⁴² [Rules](#) of executing invitations, approval of invitations for the entry of foreigners and stateless persons to the Republic of Kazakhstan, issue, cancellation, restoration of visas of the Republic of Kazakhstan, and extension and reduction of their terms of validity, as approved by the Joint Order No. 11-1-2/555 of the Acting Minister of Foreign Affairs of the Republic of Kazakhstan dated 24 November 2016 and No. 1100 of the Minister of Internal Affairs of the Republic of Kazakhstan dated 28 November 2016 (amended as of 11 June 2021) ("**Visa Issue Rules**").

⁴³ Constitutional [Law](#) No. 438-V of the Republic of Kazakhstan "On the Astana International Financial Centre" dated 7 December 2015 (amended as of 1 April 2023) ("**AIFC Constitutional Law**").

⁴⁴ Labor [Code](#) No. 414-V of the Republic of Kazakhstan dated 23 November 2015 (amended as of 8 July 2024).

We believe that such illegal requirements are primarily connected with poor qualification of relevant employees of the consulates.

9. What are the additional obligations of an employee, host person and an employer?

Summarizing the above, it is worth mentioning that in order to employ to a company a foreign employee (including a head) must obtain IIN; EDS; C3 visa or TRP, depending on the country of citizenship and presence of an agreement with such country on visa-free entry to Kazakhstan; and open a bank account for the salary settlements.

Furthermore, according to Article 35 of the Migration Law, foreign employees must have education, qualification and experience required for the performance of the upcoming work, including meet the qualification requirements.

The employers engaging foreign labor must submit the primary statistical data to a local population employment authority in accordance with the procedure and within the timeframes established by the Social Code⁴⁵ (Article 37-1.8 of the Migration Law).

It is worth pointing out that the AIFC participants must have available and store the documents with respect to each engaged employee, which confirm their high qualification, and an engaged foreigner and a stateless person must submit them to an AIFC participant (Article 8.2 of the AIFC Constitutional Law).

The AIFC participants must submit information on the engaged foreigners and stateless persons to the AIFC Authority (Article 8 of the AIFC Constitutional Law).

The AIFC Authority keeps records of foreign labor engaged by the AIFC participants, structural subdivision or an AIFC organization (paragraph 2.1 of the Record Keeping Rules⁴⁶).

For the purposes of keeping records of foreign labor engaged by the AIFC participants, a foreign employee or an employer on his/her behalf or an attorney must submit the foreign employee's application form and a copy of the foreign employee's national passport to the AIFC (paragraph 2.3.1 of the Record Keeping Rules).

After entering into an employment contract with a foreign employee, an employer must introduce information on the employment contract into the UASEC within five (5) business days of the date of signing. Furthermore, the Kazakhstan Government is currently discussing the draft amendments to the Order No. 353 of the Minister of Labor and Social Protection of Population of the Republic of Kazakhstan "On Approval of the Rules of Submission and Obtainment of Information on Employment Contracts in the Unified Accounting System of Employment Contracts" dated 3 September 2020, pursuant to which an employer will have to submit additional information regarding foreign employees, such as a number of a foreign labor engagement permit or a ground for carrying out labor activities without a relevant permit⁴⁷.

After arrival of a foreign employee, in accordance with part 2 of paragraph 9 of the Rules of Stay, a host person (hotel or dwelling owner) must inform the internal affairs authority of arrival and change of the temporary place of residence of the foreigner within 3 business days of the date of arrival/change of place of residence (via the eQonaq⁴⁸ portal). Otherwise, the host party may be imposed administrative liability (Article 518.1 of the Administrative Code).

⁴⁵ Social Code No. 224-VII of the Republic of Kazakhstan dated 20 April 2023 (amended as of 5 July 2024).

⁴⁶ AIFC Rules on Keeping Records of Foreign Labour Attracted by AIFC Participants and AIFC Bodies No. 2 dated 19 April 2018.

⁴⁷ Information dated 24 June 2024 on the portal "Open Regulatory Legal Acts" <https://legalacts.egov.kz/npa/view?id=15098168>.

⁴⁸ eQonaq portal <https://eqonaq.kz/>.

10. What are other amendments in the legislation on registration of legal entities worth paying attention?

As additional information, which may be helpful and new for most of you, we would like to mention the following amendments to the legislation on registration of legal entities.

Duty

The Order No. 24/HK of the Minister of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan dated 16 January 2024 approved the new rates of the state duty paid when performing registration actions at the registration authority. Thus, registration of a legal entity, which is a small and medium business entity, is free-of-charge, registration of a legal entity, which is a large business entity, and record registration of branches and representative offices requires a payment in the amount of KZT 11,071.63 (VAT inclusive) in case of filing documents at the PSC.

The rates of duties for registration actions with respect to non-profit legal entities, registration of which is performed by the justice authority, are still established by Article 533 of the Tax Code⁴⁹.

The fee for registering companies in the AIFC is USD 300 in case of filing documents via the e-Residence portal and USD 500 if filing documents by sending scan copies. In case of company registration in the AIFC applying the Strategic Fit Process, the AIFC may request an additional payment. The amount of such additional payment is not fixed and is determined in each specific case additionally and will depend on the risk level, complexity of application, sphere of business, connections with sanctioned persons and estimated time, which may be required to consider the application, and time of the post-registration monitoring of the company.

Furthermore, certain amendments have also been introduced into the procedure for registration of companies in the AIFC. If you are not aware of such amendments, please read our publication "10 questions to a lawyer about registration of companies in the AIFC"⁵⁰, and if you want to know the difference between a company in the AIFC and an LLP, our publication "AIFC versus national legislation"⁵¹ will be helpful.

Name

The law dated 29 December 2021 introduced amendments into the Languages Law⁵², which cancelled the requirement on transliteration of the names of legal entities with foreign participation, joint ventures, branches and representative offices of foreign companies. This novelty is very convenient, because previously it was necessary to transliterate the names of foreign companies into Cyrillic alphabet, which unrecognizably changed the original names.

The electronic Government portal previously had an opportunity to check (via a special service) the name of a registered legal entity and obtain a certificate of whether the name of a legal entity to be set up coincides with the name of a registered business entity; however, this service was deleted in 2024 for an unknown reason. To date, it is possible to check the name of a registered legal entity as to similarity with the names of already registered companies after obtaining a certificate of state registration of a legal entity (search using name). When registering a company in the AIFC, the search is automatic on the e-Residence portal.

⁴⁹ [Code](#) No. 120-VI of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget" dated 25 December 2017 (amended as of 8 June 2024) ("**Tax Code**").

⁵⁰ 10 questions to a lawyer about registration of companies in the AIFC
https://online.zakon.kz/Document/?doc_id=33346889.

⁵¹ AIFC versus national legislation of the Republic of Kazakhstan
https://online.zakon.kz/Document/?doc_id=39030322.

⁵² [Law](#) No. 151-I of the Republic of Kazakhstan "On Languages in the Republic of Kazakhstan" dated 11 July 1997 (amended as of 17 July 2024).

It is worth mentioning that recently there have been many instances of rejecting registration of companies with a reference to similarity of a name with already registered legal entity in case at least one of compounds of a complex name duplicates the name of a registered legal entity. If you are interested in this issue, we recommend reviewing our publication regarding the selection of names⁵³.

Re-registration

On 21 January 2019, a new Article 37-1 was added to the LLPs Law, which determines the moment of origination of right of a partnership participant:

"...In case of receiving the right to a share in property of a partnership after its incorporation a person becomes the partnership participant from the moment of introducing amendments into the constituent documents and re-registration of the partnership in connection with changes in the composition of its participants, and in partnerships where the register of participants is kept – from the moment of introducing relevant amendments into the register".

This is to say that final change of a partnership participant requires fulfillment of 2 conditions (i) introduction of amendments into the constituent documents; and (ii) re-registration of a partnership in connection with changes in the composition of its participants.

Such approach gives rise to many questions from notaries and legal practitioners. Previously, the role of a seller was only to enter into a sale and purchase agreement, and the buyer dealt with approval of amendments to the LLP's articles of association and its re-registration. This makes sense, because any connection of the seller with the LLP should terminate once the sale and purchase agreement has been entered into. However, after entering into the agreement, the seller now must issue certain resolutions as the LLP participant, and the buyer should somehow motivate the seller to do this. The logic of the law-maker and content of the legislative novelty seem to be obscure for the notaries, legal practitioners and even the registration authority. At the same time, we may see that such approach has been applied in the practice of re-registration of companies in the AIFC from the very beginning (AIFC registrar does not need a resolution on re-registration, since the change of a shareholder is not a ground for re-registration, but requests for a resolution of the selling shareholder on the sale of shares, Instrument of Transfer, notice of transfer of shares signed by a company director⁵⁴, information regarding a new shareholder (abstract from the trade register or passport) and, if necessary, a legal opinion on the impact of sanctions and due diligence).

Thus, the buyer becomes a fully valid participant and receives the right to vote only from the moment of re-registration of the LLP with the registration authority. It is worth mentioning that the resolution on re-registration and approval of amendments to the articles of association is issued by the old composition of participants (seller). Although, prior to introduction of the above article, such resolution was in practice issued by the buyer (in case of buying 100%) or with the participation of the buyer (if buying only a part).

To date, we may see that both old and new approaches are applied in practice, and the registration authority accepts the resolutions issued by both the old composition of participants and the buyer. However, we are aware that in certain regions of Kazakhstan the registration authority still requests that such resolution be issued by the new composition of participants.

In strict compliance with law, we believe that it would be correct to have a resolution on introduction of amendments into the articles of association and re-registration issued by the composition of participants specified in the register as of the date of issuing such resolution. In this case, the buying participant must be invited to a meeting and must sign the minutes as a

⁵³ T. Kultelev "Is it so easy to register a company in Kazakhstan?" // [Expert Kazakhstan](#) – 2015. – No. 25.

⁵⁴ Form of the AIFC [Notice](#) of Transfer of Shares.

party that reviewed the issued resolution. This seems to be logically correct, because it would be illogical if the old composition of participants approved the articles of association, based on which the new participant would have to work in the future. The amendments to the articles of association must be signed by the new participant.

An alternative approach may be the issue of two resolutions. The first one will be issued by a leaving participant on the issues of re-registration and introduction of amendments into the articles of association. In this resolution, the amendments may relate only to the new composition of participants or adoption of the revised articles of association. It may also determine a person who will be instructed to sign such amendments – new participant. The second resolution will be issued by the new participant after re-registration and may include approval of the revised articles of association (if necessary) and confirmation of powers of the chief executive officer as specified in Article 140.2 of the Labor Code: *"In case of changes in the composition of founders (participants, shareholders), new employment contracts shall be entered into with the head of the executive body, members of the collective executive body of a legal entity"*.

As regards the issues relating directly to the transfer of documents for re-registration in connection with the change of participants, this is an obligation of the very legal entity, and the LLP head must himself/herself apply for re-registration or issue a power of attorney to a representative.

Seal

The requirement on the presence of seals for the legal entities, which are private entrepreneurship entities (specifically, LLPs), was cancelled as far back as 2014⁵⁵. Additionally, the law dated 6 April 2024⁵⁶, which entered into force on 8 June 2024, introduced the amendments into Article 16 of the Legal Entity Registration Law. Such amendments cancelled the requirement on submission of a document confirming the destruction of a seal of a legal entity in case of its liquidation.

Notices

It is commonly known that Article 14-2 relating to the notification procedure was added to the Legal Entity Registration Law on 25 November 2019. Thus, the amendments to the registration data of a legal entity or a branch (representative office) must be introduced in case of:

- 1) change of location of a legal entity, which is a private entrepreneurship entity, branch (representative office), except for a joint stock company, branch (representative office);
- 2) change of head (appointment of head, appointment of acting head, appointment of a person managing the property and activities of a legal entity, discharge from office of the head);
- 3) introduction of amendments into the constituent documents, except for the requirements stipulated by Article 14-1 of the said law;
- 4) transfer of a share in the charter capital into trust management;
- 5) increase in the charter capital of economic partnerships;
- 6) changes in the key type of economic activities;
- 7) changes in the composition of founders (participants, members) of non-for-profit organizations, except for political parties;
- 8) change of a beneficial owner of a legal entity;

⁵⁵ Law No. 269-V of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on Drastic Improvement of Conditions for Entrepreneurial Activities in the Republic of Kazakhstan" dated 29 December 2014 (amended as of 1 January 2023).

⁵⁶ Law No. 71-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on Business Issues" dated 6 April 2024.

- 9) changes in contact details (telephone, email) (*will be put into effect starting 7 January 2025*)⁵⁷.

The amendments to the registration information of a legal entity, branch (representative office) specified in items 1), 2), 4), 5), 6), 7), 8) and 9) above are introduced automatically on the basis of an electronic notice. For this purpose, it is necessary to submit an electronic notice on the portal of the electronic Government. The amendments to registration and other information of a legal entity, branch (representative office) must be introduced within 3 business days of the moment of submitting the electronic notice. However, not all cases allow for the use of this function. Thus, for example, if a founder or a head is a foreigner, there occur a technical error preventing from the receipt of the service. In this case, an applicant may submit the notice on the platform for electronic applications of citizens and legal entities (eOtynysh)⁵⁸, and the period of processing established by the Administrative Procedure Code⁵⁹ is normally 15 calendar days.

Legal entities, branches (representative offices) must notify the registration authority of introducing amendments into the constituent documents within the one-month period of the date of issuing a resolution on introduction of amendments into the constituent documents (exception – increase in the charter capital, of which the registration authority must be notified within 3 months) (Articles 14-2.8 and 26.5 of the LLPs Law).

This article contains paragraph 3, pursuant to which it is necessary to notify the registration authority of introducing amendments into the constituent documents, except for the requirements stipulated by Article 14-1 of the said law (14-1 deals with introduction of amendments into the constituent documents of a legal entity, which does not refer to private entrepreneurship entities, joint stock companies, and provisions on their branches (representative offices). This clause gave rise to many questions, specifically, whether it is necessary to notify the registration authority of all amendments to the articles of association (including editorial). Based on the meaning of Article 6-1 of the Legal Entity Registration Law, articles of association of legal entities, which are private entrepreneurship entities, are not submitted in the course of state registration; accordingly, it is not necessary to notify the registration authority of all amendments.

The answer of the Minister of Justice of the Republic of Kazakhstan dated 15 December 2022⁶⁰ clarified that it is not necessary to notify the registration authority of all other amendments (except for changes in registration information).

It is also worth mentioning that certain amendments were introduced into the AML/CFT Law⁶¹ in 2023 within the general jurisdiction of Kazakhstan, which introduced the Register of Beneficial Owners of legal entities kept by an authorized agency (Article 6-1), and legal entities and foreign structures without formation of a legal entity must take available measures to establish their beneficial owners and record information required for their identification (Article 12-3). Furthermore, starting 2020, Kazakhstan introduced the new forms of applications for the state registration of legal entities, providing for indication of information on beneficial owners. Since 2023, Kazakhstan has put into effect the rule of Article 14-1 of the said law, which obligates to

⁵⁷ Law No. 115-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of State Control and Statistics, Improvement of the Population Protection System, Data Management, Registration of Legal Entities and Exclusion of Excessive Legislative Regulation" dated 5 July 2024.

⁵⁸ eOtynysh portal (<https://eotinish.kz/ru>).

⁵⁹ Administrative Civil Procedure Code No. 350-VI of the Republic of Kazakhstan dated 29 June 2020 (amended as of 5 July 2024).

⁶⁰ Answer of the Minister of Justice of the Republic of Kazakhstan dated 15 December 2022 to the question No. 760653 dated 30 November 2022 (available in ILS "Paragraph").

⁶¹ Law No. 191-IV of the Republic of Kazakhstan "On Counteraction against Legalization (Laundering) of Illegally Gained Proceeds and Combating the Financing of Terrorism" dated 28 August 2009 (amended as of 8 June 2024) ("**AML/CFT Law**").

introduce amendments into the registration information of a legal entity in case of change of a beneficial owner of such legal entity.

The AIFC has similar requirements. Thus, a company in the AIFC must keep and maintain the Register of Beneficial Owners or transfer the keeping of such register to the Registrar (as a rule, this issue is decided at the stage of the company registration) and notify it of all changes within 14 days (paragraphs 1, 8, 9, 19, and 22 of Section 179-4 of the Companies Act⁶²); however, the UBO Guidance⁶³ and Guidance on Filing Obligations of AIFC Participants to the Registrar⁶⁴ specify another term of 30 days. In addition, when filing the Annual Return once a year, a company must inform the Registrar of beneficial owners.

It is worth mentioning that, although information on a beneficial owner is initially specified in an application for registration of both legal entities in Kazakhstan and companies in the AIFC, nevertheless, information on beneficial owners is not disclosed in public registers.

⁶² AIFC Companies Regulations No. 2 dated 20 December 2017 (amended as of 28 December 2022, in effect since 1 January 2023).

⁶³ AIFC [Guidance](#) on Ultimate Beneficial Owner.

⁶⁴ [Guidance](#) on Filing Obligations of AIFC Participants to the Registrar.