

# *PwC Azerbaijan Times*

## Issue №9

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### ***Amendments to the Criminal Code***

The Law on amendments to the Criminal Code of the Republic of Azerbaijan introduced new edition of the article on monopolistic actions and limitation of competition, some of the penalties for committed crimes has been aggravated, while others were replaced by new ones.

While the old edition determined penalties from AZN100 to AZN500 or by correctional social labor for the period of one (1) year or imprisonment for two (2) years for establishment of monopolistically high or monopolistically low price and performance of monopolistic actions via other means; the new edition determines penalties for the above-noted actions in double amount of damage caused by the criminal action (or collected profit) accompanied with deprivation from holding certain position and carrying out certain types of activities for two (2) years; or by

imprisonment for the period of three (3) years accompanied or not accompanied with deprivation of the right to hold certain positions and to carry out certain types of activities for two (2) years.

In case same actions are committed repeatedly, or performed by an organized criminal group, or committed by a person abusing his/her power, or brought damage or profit in a significant amount, such actions shall result in deprivation of freedom from three (3) to seven (7) years accompanied with deprivation from holding certain position of carrying out certain activity for a period of 3 (three) years or with penalty in triple amount of caused damage (collected profit).

In case if actions noted in the article were committed by a criminal community (organization), without sign of extortion

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by threats, violence or threat of violence, as well as destruction or damage of property or large damage or large damage resulting in significant amount, such actions will result in deprivation of freedom from seven (7) to twelve (12) years accompanied with the penalty at amount of four times of caused damage (collected profit).

In addition, the new edition of the article clarifies definitions of "significant amount" and "large amount". Thus, "significant amount" means AZN10,000 to AZN50,000, while "large amount" means the amount of more than AZN50,000.

According to the Law on amendments to the Criminal Code of the Republic of Azerbaijan, article 308-1 "On unpurposeful use of state budget funds" have been added to the Criminal Code. This new article states that in case state budget and extra-budgetary funds or other funds are not used for the purposes of this act and are used at significant amount, the acts shall result in deprivation from holding a certain position of carrying out certain activity for a period of three (3) years accompanied with the penalty in the amount of AZN8,000 to AZN10,000, or in deprivation of freedom up to three (3) years accompanied with deprivation from holding a certain position of carrying out certain activity for a period of three (3) years. In case these actions were performed in large amounts, the penalty should be in deprivation of freedom from three (3) to six (6) years accompanied with deprivation from holding certain position of carrying out certain activity for up to three (3) years.

In addition, the new edition of the article clarifies definitions of "significant amount" and "large amount". Thus, "significant amount" means AZN50,000 to AZN250,000, while "large amount" means the amount of more than AZN250,000.

### ***Amendments to Administrative Offences Code***

The Law on amendments to the Administrative Offences Code of the Republic of Azerbaijan introduced new edition of Article 410 on monopolistic actions and limitation of competition, some of the penalties for committed crimes has been aggravated, while others were replaced by new ones.

Article 410 of the Administrative Offenses Code states penalty at the amount of AZN4,000 for violation of the financial and economic activity of the state-funded financial rules, as well as the failure to use targetally allocated budgetary funds and maintaining of staff exceeding normative amount. In case if noted administrative offences were conducted at the amount exceeding AZN4,000, the officials of the organization financed from the state budget shall be penalised from AZN4,000 to AZN6,000. Such actions shall be implemented in case if actions do not result in criminal liability imposed by relevant articles of the Criminal Code.

### ***Amendments to the Law On state registrar of real estate***

According to the introduced amendments, for the purpose of obtaining information related to mortgaged immovable property, connection between databases of the Central Bank of Azerbaijan, the financial market supervisory authority, mortgage companies, mortgage holders, banks and other credit organizations the contact between these systems and database of the State Registrar of real estate shall be established.

Period for registration of real property and other proprietary rights and inventory operations therewith, which is necessary in connection with the registration of real property rights, may be extended by five (5) business days. In this case, the applicant must be provided with a notification.

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In addition, the amendments touched on the statutory periods. So that:

- state registration of rights to immovable property and the appropriate application for the issuance of the registration statement and the documents attached to it are defined as ten (10) working days effective the date of submission. Previously, this period was twenty (20) days.
- in case if reasons for the suspension of registration were established, the official inquiries on doubtful documents shall be sent to the relevant authorities, who should respond to inquiries within seven (7) days. Previously, this period was ten (10) days.
- registration of mortgage shall be done within three (3) working days from the date of submission of the application for registration. Previously, this period was five (5) working days.

### ***Amendments to the Law On Anti-trust activities***

The Law On amendments to the Law of the Azerbaijan Republic On Anti-trust activities, mentioned and described in our April Issue No.5 has come into force on 28 April 2016.

### ***Amendments to the Law of the Republic of Azerbaijan On Telecommunications***

The introduced amendments imply addition of protection from information harmful to children's health and development of capabilities; assurance of safe use of internet information resources and right for subscribers to require protection from information harmful to children's health and development of capabilities. Subscriber's consent (or objection) should be reflected in the agreement with the subscriber.

### ***Proposals on toughening penalties for evasion from paying taxes and social contributions***

Upon presentation of the President of Azerbaijan Republic, amendments to the Article 213 of the Criminal Code (tax evasion) will be discussed in Milli Majlis's plenary session.

Proposed amendments envisage punishment for evasion of taxes or social insurance payments for a considerable amount by 2 (two) or 4 (four) times of damage caused by such evasion, deprivation from holding certain position or carrying out certain activities for up to 3 (three) years, or without deprivation of the rights punishment with imprisonment for up to 3 (three) years.

Please note that currently punishment for the aforementioned act is fine in the amount of AZN1,000 to AZN2,000, or reclamation work for up to 2 (two) years, or punished by imprisonment for up to 3 (three) years.