

**Answers to the questionnaire of UNODC prepared by the Prosecutor General's
Office of the Republic of Azerbaijan**

According to the legislation, beneficial owner – natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted; it also incorporates those persons who exercise ultimate effective control over a legal person or arrangements.

The definition of the beneficial owner is mentioned in the several laws of the Republic of Azerbaijan:

1) Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism (Article 1.0.12)

2) Law of the Republic of Azerbaijan “On Securities Market” (Article 1.0.3)

3) Law of the Republic of Azerbaijan “On investment funds” (Article 1.1.18)

4) Law of the Republic of Azerbaijan “On insurance activity” (Article 13)

5) Law of the Republic of Azerbaijan “On Banks” (Article 42)

It should be noted that in accordance with the legislation of the Republic of Azerbaijan, information about the beneficial ownership is not included in the state register of legal entities and information about the beneficial ownership is not obtained during registration.

According to the Law of the Republic of Azerbaijan “On state registration and state register of legal entities”, during the state registration of legal entities, information on beneficiary entrepreneurs is not required to be submitted to the registration authority.

The definition of a beneficiary owner is given in the Article 1.0.12 of the Law on Combating Money Laundering and Terrorist Financing, Article 1.1.18 of the Law on Investment Funds, Article 1.0.3 of the Law of the Republic of Azerbaijan on the Securities Market and in a number of other legislative acts.

It is worth to note that according to those laws, beneficiary owner is an individual or a legal entity who ultimately receives economic or any other benefit from transactions involving cash or other property, as well as the real owner of the legal entity in whose favour the transactions are made, or an individual exercising control over the client and (or) exercising control over the individual or legal entity on whose behalf financial transactions or other transactions are carried out.

During the inspection for the purpose of determining the beneficial owner who is a legal entity, its charter and state registration document are compared with the information included in the state register of legal entities. In addition, information on the activities of the legal entity is obtained from the media, Internet information resources or official publications. During the inspection, cases of continuous transfer

of funds by a legal entity to any person, mainly to a person registered in offshore zones are being investigated and it is determined by inquiries, oral statements and explanations whether the person is the de facto owner-beneficiary.

Identity document and TIN information of the beneficiary owner is compared with his/her the receipts for housing and communal services or maintenance fees from non-residential areas, or an extract from the state register of real estate on the state registration of property rights, or with information on the place of residence on the basis of a lease agreement for the purpose of his/her identification during the inspection.

In some cases, the founder and the beneficiary are the same person, and in this case the registration authority shall reflect the actual beneficiary of the information entered in the state register by the registration authority of legal entities. During the state registration of a commercial legal entity, the identity card of the founder individual shall be submitted to the registration authority, and if the founder is a legal entity, the registration certificate shall be submitted to the registration authority. Property information is required to confirm the actual registration address.

Based on the Rules "Administration of international agreements on elimination of double taxation concluded between the Republic of Azerbaijan and other states" approved by the Decision No. 171705000009300 of the Board of the Ministry of Taxes of the Republic of Azerbaijan dated June 12, 2017, applicants with the appropriate DTA Application Forms (03 and 05) are required to provide all supporting documents substantiating that they are the actual owner of the income (beneficiary). At the same time, the submitted information is cross-checked with information obtained from open information sources (official websites of the relevant state and (or) websites of transnational companies). Also, information about the founders and final beneficiaries is obtained directly from the databases (Refinitive) specialized in the relevant field, which State Tax Service has a special access to. If it is not possible to obtain information on the basis of any of the above, an inquiry is submitted to the tax authority of the relevant foreign state.

Information on beneficiary entrepreneurs is periodically checked during tax control (desk and on-site tax inspections) and monitoring.

According to Article 405 of the Code of Administrative Offenses of the Republic of Azerbaijan, officials shall be fined in the amount of one thousand to two thousand manats (approximately 485 Euros to 970 Euros), legal entities in the amount of two thousand five hundred to three thousand manats (approximately 1214 Euros to 1455 Euros) for failure to apply to the relevant executive authority within the period and in the manner prescribed by the Law of the Republic of Azerbaijan "On State Registration and State Register of Legal Entities" for registration of changes in the constituent documents of legal entities, as well as branches or representative offices of foreign legal entities in the Republic of Azerbaijan, and for the registration of subsequent changes in the facts recorded in respect of these bodies.

According to Article 598.1.1 of the Code of Administrative Offenses of the Republic of Azerbaijan, officials shall be fined in the amount of one thousand five hundred to two thousand five hundred manats (approximately 727 Euros to 1214 Euros), legal entities in the amount of fifteen thousand to twenty five thousand manats (approximately 7280 Euros to 12134 Euros) for non-compliance by monitoring participants and other persons participating in monitoring with the requirements for identification, verification and documentation of information of the client, his representative or beneficial owner,

At the same time, according to Article 30.3 of the Tax Code, the Law of the Republic of Azerbaijan “On Commercial Secrets” information constituting a taxpayer's commercial or tax secret shall not be disclosed by the tax authorities or their officials, except in cases provided by law.

In addition, on 4 April of 2022 The President of Azerbaijan has signed an order on approval of the National Action Plan for 2022-2026 for strengthening the fight against corruption. This comprehensive National Action Plan to Strengthen the Fight Against Corruption covering the 2022-2026 period serves to consolidate the anti-corruption efforts of various agencies with different areas of activity and to systematically coordinate the fight against corruption among all government agencies and civil society institutions. It should be emphasized that the mentioned National Action Plan envisages the special measure regarding beneficial ownership issues in public procurement area – (“Providing proposals on determining the obligation to disclose the information on beneficial owner to companies participating in public procurement”).

To this end, the Republic of Azerbaijan has ratified numerous important international treaties, such as the “Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime”; the “Convention on Mutual Legal Assistance in Criminal Matters and the last three Additional Protocols”; the Commonwealth of Independent States Conventions on Legal Relations and Legal Assistance in Civil, Family and Criminal Matters, and amended the national legislation to align it with the best international standards.

Moreover, in recent years several national policy documents and state programs aiming at ensuring greater transparency of the financial system and increasing accountability in public governance have been adopted and implemented. The latest one is the “2020-2022 National Action Plan for the Promotion of Open Government”.

Subsequently, in May 2020, the necessary amendments to domestic legislation were adopted as a part of broader reforms to encourage the return of assets from individuals accused of fraud, embezzlement, and other economic crimes. Under adjustments introduced to the legislation, perpetrators of the mentioned category of crimes might be exempted from criminal liability if they compensate the damages caused by crimes and pay fines to the state budget.

Moreover, in 2020, a new Department for the Coordination of Special Confiscation Issues with functions attributable to Asset Recovery Offices was established within the Prosecutor General's Office. The main functions of this Department include facilitating compensation to victims of crime, ensuring application of special confiscation measures, assistance in detection and tracing of assets subject to confiscation, maintaining records of evidence subject to confiscation, and providing investigative authorities with practical assistance in the seizure and confiscation of assets.

Regular steps are taken to enhance that Department's mandate. In this respect, proposals have been elaborated for amendments to domestic legislation aiming at increasing the efficiency of asset recovery practice. In addition, to expand the capabilities of the said Department in compliance with relevant international standards, within the framework of its Twinning project, the European Union has launched institutional cooperation between Lithuanian Special Investigation Service together with the Prosecutor General's Office of Lithuania and the Prosecutor General's Office of Azerbaijan on the project: "Support for Asset Recovery Reforms in Azerbaijan".

**Prosecutor General's Office
of the Republic of Azerbaijan**