

## LATEST LEGISLATION AMENDMENTS ON MIGRATION ISSUES

### IMPORTANT!

On 16 May 2024, Kazakhstan adopted the [Law](#)<sup>1</sup> on introduction of amendments into certain regulatory legal acts of the Republic of Kazakhstan on migration issues. Major part of the adopted amendments will be put into effect starting 28 May 2024.

In this Legal Update, we consider the amendments to the [Law](#)<sup>2</sup> of the Republic of Kazakhstan on Population Migration, which we deem most relevant and important for business.

### ■ **Permits to Temporary and Permanent Residence in Kazakhstan**

- The amendments established that permits to temporary residence in Kazakhstan must be issued to business migrants arriving from the states that entered into international treaties with Kazakhstan on visa-free entry and stay and their family members by the internal affairs authority for one year with the possibility to extend the permit each year.
- The amendments expanded the list of categories of visas (added an investor multiple-entry visa issued upon an application of the authorized agency for investments and a visa issued according to the list of professions in demand to the foreigners for obtainment of a Kazakhstan permanent residence permit, as approved by the authorized agency for population migration issues), the recipients of which temporarily staying in Kazakhstan may apply to the internal affairs authority for a permanent residence permit.
- The amendments expanded the list of grounds for refusal to issue Kazakhstan permanent residence permits to foreigners and stateless persons or cancellation of a previously issued permit, and now such list includes:
  - commitment by such person of a sex crime against an underage person;
  - presence of information with the national security authority of Kazakhstan on affiliation of such person with an organization recognized in Kazakhstan as an extremist or terrorist organization (list of such organizations may be found on the Internet resources of the electronic Government of Kazakhstan<sup>3</sup>. Furthermore, the resolution of the Committee of Secretaries of the Security Council of the Collective Security Treaty Organization approved the list of organizations recognized as

<sup>1</sup> Law No. 82-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of Improvement of Legislation in the Sphere of Population Migration and Penal System" dated 16 May 2024.

<sup>2</sup> Law No. 477-IV of the Republic of Kazakhstan "On Population Migration" dated 22 July 2011.

<sup>3</sup> For example, [here](#).

terrorist and extremist organizations in the member states to the Collective Security Treaty Organization<sup>4</sup>);

- obtainment by this person of a permanent residence permit on the basis of the list of professions in demand approved by the authorized agency for population migration issues without subsequent work in the profession stipulated by the said list within 183 calendar days within any subsequent 12-month period from the date of issuing a permanent residence permit.
- The amendments clarified that for the purpose of refusal to issue or cancellation of a previously issued Kazakhstan permanent residence permit in connection with the fact that a foreigner (stateless person) has not lived in the Kazakhstan territory within the required period (at least 183 calendar days within any subsequent 12-month period from the date of issuing a permanent residence permit), when calculating such period, it is not necessary to take the periods when such foreigner (stateless person) was actually outside Kazakhstan; however, according to the Kazakhstan legislation on citizenship, these periods must be taken to calculate the period of living in the territory (e.g. military service, education at a foreign educational institution, foreign business trips, etc.).
- The amendments clarified that, for the purpose of refusal to issue or cancellation of a previously issued Kazakhstan permanent residence permit, no more than one year must pass from the moment of imposing administrative liability on a foreigner (stateless person) for administrative violations in the sphere of migration of population, tax and labor legislation of Kazakhstan.
- From now on, no refusal to issue a Kazakhstan permanent residence permit occur and no previously issued permit is cancelled in connection with the fact that a foreigner (stateless person) has a disease serving as a counter-indication for entry into Kazakhstan in case such person is legally incapable (in our view, the relevant rule is set out by the law-maker in an incorrect manner, which may entail certain disputes relating to its proper interpretation and implementation).

## ■ Restrictions and Prohibitions for Foreigners

- Prohibition to set up a legal entity and participate in the charter capital of a commercial organization by way of becoming one of participants of a legal entity now relates not only to the foreigners who did not obtain entry visas as business migrants, but also to foreigners (except for migrants who have a foreigner's residence permit or a certificate of a stateless person) who failed to obtain a permit to temporarily reside as business migrants.
- The amendments expanded the list of cases where immigrants are prohibited to enter Kazakhstan, and now it includes:
  - presence of information with the Kazakhstan national security authority on the immigrant's affiliation with an organization recognized in Kazakhstan as an extremist or terrorist organization;
  - recognition by court that the immigrant's actions represent not only a dangerous repetition of crimes, but also repetition of crimes in general;

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<sup>4</sup> [Reference](#) to the respective list on the Internet resource of the Collective Security Treaty Organization.

- if an immigrant holds a leading position in an organized group (criminal organization);
  - if an immigrant commits a grave or extremely grievous crime in Kazakhstan with subsequent handover to the state of citizenship (according to the international treaties ratified by Kazakhstan on handover of sentenced persons or agreement reached on the basis of reciprocity between the Prosecutor General of Kazakhstan with the competent authorities and officials of a foreign state); and
  - if an immigrant commits a sex crime against an underage person.
- The amendments clarified that 5-year prohibition to enter Kazakhstan now relates not only to those immigrants who were previously deported from Kazakhstan, but also to immigrants returned under the readmission procedure (term of prohibition is calculated from the date of execution of a court judgment on deportation, exit under the readmission procedure).

### ■ Control over Compliance with the Migration Legislation

The law-maker determined the procedure for exercising the state control over compliance with requirements of the Kazakhstan legislation in the population migration sphere. The control is exercised by inspections conducted by territorial internal affairs authorities of individuals and legal entities hosting foreigners and stateless persons and/or using foreign labor.

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Legal Updates shall not be treated as a legal advice or a reason for making specific decisions on the Kazakh law issues. Should you need a legal advice, we would be happy to assist.