

ELECTRONIC DOCUMENT LAW

This law determines the legal provisions for circulation of electronic documents on the territory of Azerbaijan Republic, regulates relations associated with the creation, usage, storage, transmission and receipt of information produced with the help of software (programs) and technical equipment by the state (authority) agencies, local self-governing bodies, natural and legal persons.

Chapter I. GENERAL PROVISIONS

Article 1. Area of electronic documents circulation.

- 1.1 Electronic document can be used (applied) in all activity spheres where software and technical equipment could be applied to create, use, store, transmit and receive information;
- 1.2 In cases stipulated by the legislation of Azerbaijan Republic restrictions can be put on the application of electronic documents.

Article 2. Main definitions

2.1 The following main definitions are used in this Law:

- 2.1.1 *Electronic document* - document (containing) information expressed in an electronic -digital form and having properties allowing to identify its authenticity;
- 2.1.2 *Machine carrier* - material (physical) carrier used to write (create) and store information with electronic counting equipment (computers);
- 2.1.3 *Electronic document's sender* - natural or legal persons themselves sending electronic documents or on which behalf they are sent, with the exception of those which act as intermediaries in relation to the sent document;
- 2.1.4 *Electronic document's receiver* - is a natural or legal person to whom electronic document is addressed;
- 2.1.5 *Electronic information system* - is a collection of software, equipment, combination of software and equipment, methods and procedures applied to create, use, transmit, receive, store and check for completeness the electronic documents;
- 2.1.6 *Information system's participant* - person participating in the circulation of the electronic documents;
- 2.1.7 *Electronic documents circulation* - is a collection of processes utilized to check completeness and validity, in the necessary cases

confirm the receipt of, create, use, transmit, receive, store and apply electronic documents;

- 2.1.8 *Information intermediary* - one (person) that sends, receives or stores electronic messages on behalf of others, which provides also other services related to these documents;

Article 3. Legislation on electronic document

- 3.1 Legislation of Azerbaijan Republic on electronic document consists of Azerbaijan Republic's Constitution, this Law, other regulatory-normative decrees and intergovernmental (international) treaties that Azerbaijan Republic is party to.

Chapter 2. ELECTRONIC DOCUMENT

Article 4. Requirements to electronic documents

- 4.1 Electronic document should meet the following requirements:
- 4.1.1 be created, used, transmitted and stored with the help (usage) of technical equipment and program support (software);
 - 4.1.2 have structure meeting the requirements of this Law and properties allowing its authentication;
 - 4.1.3 presented in an comprehensible form.

Article 5. Electronic document's structure

- 5.1 Electronic document consists of two inseparable parts: from the general and especial parts.
- 5.2 The general part of electronic document consists of information presenting the content of the document. If the document is addressed to the specific person, information about this person is related to the general part.
- 5.3 The especial part of the electronic document consists of one- or several-digit electronic signature(s).

Article 6. Forms of the electronic document's expression

- 6.1 Electronic document has internal and external forms of expression.
- 6.2 Electronic document's internal form of expression consists of electronic document's recording made in the mechanical bearer of information.
- 6.3 Electronic document's external form of expression consists of visual and comprehensible outcome (appearance) of the electronic document on the screen of display, on the paper or other material object originated (separate) from the mechanical bearer of information.

Article 7. Original of the electronic document

- 7.1. All samples of the electronic document endorsed by the electronic signature are considered as originals. Electronic document cannot have electronic copies (copies in electronic form).
- 7.2. If the same person has produced two documents with the same content, but one of them in an electronic form, and another (separately from the first) - on the paper, these two documents are considered as independent. In this case document on the paper is not considered as a copy of the electronic document.

Article 8. Copy of the electronic document and rules to certify it

- 8.1. The copy of the electronic document is being created by certification of its printed (expressed) on the paper external form in accordance with the rule stipulated by the legislation.
- 8.2. Certification of the external printed on the paper form of the electronic document is conducted by the notary office or other person having the right to conduct notary services;
- 8.3. Printed on the paper copy (version) of the electronic document should bear the notification that this is the copy of the respective electronic document.
- 8.4. The copy of the electronic document expressed on physical object originated from the mechanical bearer, but different from the paper, or paper copy, which was not certified according to the rule, does not have respective legal force (as a copy of the electronic document).

Article 9. Legal force of the electronic document

- 9.1. Electronic document is considered as legal as document expressed (existing) on the paper and has equal legal force.
- 9.2. Originals of the electronic document and its copies printed on the paper in accordance with the requirements of Article 8 of this Law have equal legal force.
- 9.3. If legislation of Azerbaijan Republic requires notary verification and/or official registration of the document, it is not allowed to present (apply) electronic document or its expressed on the paper copy.
- 9.4. Described in the Article 16 of this Law rule of circulation and book-keeping of information (expressed) in the form of electronic document is regulated by the formal book-keeping rules and standards prescribed by the Azerbaijan Republic's legislation.

Article 10. Electronic document presented as material evidence (exhibit) on the court

- 10.1 Electronic document is accepted as a written evidence (exhibit) by the courts of Azerbaijan Republic;
- 10.2 The presentation of the evidence only in the form of an electronic document cannot serve as a reason for its rejection.
- 10.3 When evaluating electronic document as evidence (on the court), the particularities of its creation, storage, transmission, and also authenticity and immutability of the electronic documents and other important cases (conditions) should be taken into account.

Chapter 3. CIRCULATION OF THE ELECTRONIC DOCUMENT

Article 11. Sending (dispatch) of electronic document

- 11.1 Electronic document is considered as sent by its sender in the following cases:
 - 11.1.1 if it was sent by the sender himself/herself;
 - 11.1.2 if it was sent by someone who in the relation to the sent document is authorized to act on the behalf of the sender;
 - 11.1.3 if it was sent by the information system programmed by the sender to function automatically.
- 11.2 If receiver of the electronic document followed in an appropriate manner to agreed with the sender examination procedure allowing to prove that the electronic document was dispatched by the sender, he/she is right by considering the electronic document as one which was sent by the sender.
- 11.3 In the following cases receiver of the document cannot consider them as being sent by the sender:
 - 11.3.1 if during reasonable (rational) period of time receiver has received from the sender the notification that he/she did not dispatch the document;
 - 11.3.2 in the result of fulfillment of the examination procedure shown in the agreement between sides the receiver knew or had to know that the electronic document did not leave the sender.
 - 11.3.3 in the result of fulfillment of the examination procedure shown in the agreement between sides the receiver knew or had to know that he/she has received distorted electronic document;
 - 11.3.4 in the result of fulfillment of the examination procedure shown in the agreement between sides the receiver knew or had to know that the electronic document was received as a result of automatic repetition of another document.

Article 12. Receipt of the electronic document

- 12.1. According to the inquiry of the sender or on the basis of the

agreement between sides the (fact of) receipt of the electronic document should be confirmed by the receiver.

- 12.2 In case if sender's inquiry or agreement between sides is happening during electronic document's transmission or before that, the Article 11.1 of this Law is applied.
- 12.3 If other cases have not been stipulated in the agreement between sides, confirmation may be accomplished by any notification of the receiver (including that of automated) or by any action of the receiver unequivocally confirming the receipt of the document.
- 12.4 If other cases have not been stipulated in the agreement between sides, electronic document is not considered as received until confirmation has been received.
- 12.5 If within the time limit stipulated by the sender or envisioned in the agreement between sides, or if such a time limit was not set, within reasonable period of time confirmation has not been received, the sender:
 - 12.5.1 should inform receiver that he/she has not received the confirmation and identify time period within which confirmation should be sent to him;
 - 12.5.2 if confirmation has not been received within time frame stipulated in the Article 11.5.1 of this Law, by informing the receiver may consider electronic document as not received.
- 12.6 After the sender has received from the receiver confirmation about the receipt of the electronic document, respective electronic document is considered as received by the receiver. (However) this provision does not certify (affirm) that the content of the received electronic document is the same as one that was sent.
- 12.7 In the received notification it should be mentioned that electronic document comply with the technical requirements agreed between sides.
- 12.8 With the exception of relations associated with the dispatch and receipt of electronic documents, Article 11 of this Law does not regulate other relations associated with the content of electronic documents or other issues associated with (coming from) the confirmation of the receipt of the electronic documents.

Article 13. Timing of the dispatch and receipt of the electronic document

- 13.1 If other cases have not been stipulated in the agreement between sides, starting from the time when the electronic document has entered into the electronic system which is not controlled by the sender or anyone acting on behalf of the sender, electronic document is considered as being sent.

- 13.2 If other cases have not been stipulated in the agreement between sides, the moment when the electronic document enters into the electronic system identified by the sender, is considered as its receipt time.

Article 14. Storage of the electronic document

- 14.1 By the observing the following conditions the legislation of the Azerbaijan Republic or agreements between the sides regarding the storage of (electronic) documents is ensured:
- 14.1.1 possessed information provides opportunity for the consequent usage;
 - 14.1.2 electronic document keeps the same format which it had when it was created, transmitted and received;
 - 14.1.3 electronic document allows identification of its sender, receiver, also date and time of its creation or receipt;
 - 14.1.4 if provisions stipulated by the legislation or by the agreement between sides are observed;
- 14.2 Envisioned in the Article 10.1 requirements of this Law regarding storage of the electronic documents are not related to those electronic documents storage of which is not mandatory.
- 14.3 In accordance with the Article 10 of this Law legal or natural persons may use services of other legal and natural persons to store electronic documents.
- 14.4 Rules, conditions and particularities to store electronic documents are stipulated by the respective legislation of Azerbaijan Republic.

Article 15. Protection of the electronic document

- 15.1 Appropriate software (programs) and technical equipment should be used to provide necessary level of protection during creation, usage, transmission and storage of electronic documents.
- 15.2 During circulation of the electronic documents while using information systems and networks, the necessary level of the electronic documents' protection is ensured by the owner of these systems and networks.

Article 16. Services of the information intermediaries.

- 16.1 Storage, transmission and receipt of the electronic documents could be conducted by using services of the information intermediaries.
- 16.2 Information intermediary does not bear responsibility for content of stored, transmitted or received electronic documents.

Chapter 4. ORGANIZATION OF THE ELECTRONIC DOCUMENTS CIRCULATION

Article 17. Principles of electronic documents' circulation's organization

Application of the electronic documents is conducted according to the requirements of Azerbaijan Republic's legislation or on the basis of agreements between sides, which entered into mutual relations regarding electronic document circulation.

Article 18. Electronic documents content of which consists of confined (restricted usage) type of information

- 18.1. The content of the electronic document may consist of information constituting state, service or commercial secret, also information distribution of which is prohibited or limited. Rules of usage and protection measures of such information are regulated by the legislation of Azerbaijan Republic.
- 18.2 State agencies, legal and natural persons, and officials admitted by the legislation of Azerbaijan Republic to work with the electronic documents envisioned (listed) in the Article 18.1 of this Law are responsible to take necessary measures to provide security (protection) of these documents.
- 18.3 Persons conducting exchange (circulation) of electronic documents on the basis of signed agreements themselves identify regime of the access to electronic documents content of which consists of confidential information, and the system (methods) of its protection.

Article 19. Requirements to the software (program) and technical equipment used for electronic documents' circulation

- 19.1 Electronic information systems providing circulation of the state owned information or information protection of which is rendered by the state are subject to the state examination conducted in accordance with the rules set by authorized state agencies.
- 19.2 Enciphering means (devices) providing protection to the state owned confidential information, or to information constituting state secrets should be allowed to do that by the respective authorized state agency conducting state policy in the sphere of information's enciphering protection.

Article 20. Certification of the software and technical equipment

Software and technical equipment used to create, use, transmit, store and protect electronic documents are certified in accordance with rules set by the legislation of the Azerbaijan Republic.

Chapter 5. RESPONSIBILITY (LIABILITY) FOR THE VIOLATION OF THE LEGISLATION REGARDING ELECTRONIC DOCUMENTS CIRCULATION

Article 21. Responsibility for the violation of the legislation regarding electronic documents' circulation

- 21.1 Persons found guilty in violation of legislation regarding electronic documents circulation bear responsibility in accordance with the rules set by the Azerbaijan Republic's legislation.
- 21.2 (Persons found responsible) for non-provision of services to the persons conducting electronic documents circulation, or provision of low quality services, also for damage inflicted bear responsibility in accordance with the legislation of Azerbaijan Republic.
- 21.3 Persons having in the course of their official duty performance access to electronic documents containing information, dissemination of which is prohibited or limited, bear responsibility in accordance with the legislation of Azerbaijan Republic.

Chapter 6. CONCLUDING PROVISIONS

Article 22. International treaties

In cases when there is contradiction between this Law and intergovernmental (international) treaties that Azerbaijan Republic is party to, international treaties are applied.

Article 23. Coming into effect

This Law is effective from the date of its publication.