



GRATA
INTERNATIONAL

DOING BUSINESS


in Kazakhstan



Dear reader,

 Let us to introduce you the 'Doing Business in the Republic of Kazakhstan' publication developed by GRATA International.

The information herein is based on theoretical and practical information available as of April 2023. The content of this publication is intended for foreign businessmen and companies seeking to do business in the Republic of Kazakhstan. In particular, the brochure allows you to learn about the main forms of doing business in Kazakhstan, including a detailed comparison table of such forms, information on the tax structure, bankruptcy, and it also provides answers to the frequently asked questions for starting and doing business in Kazakhstan. Please note, however, that the legislation in the Republic of Kazakhstan is subject to frequent changes.

 If you have decided to start business in Kazakhstan, we would be happy to assist and offer our services.

We hope you find information given helpful and useful.

**Best Regards,
GRATA International**

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GRATA INTERNATIONAL

ABOUT US

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full coverage of the entire region with network of offices, highly qualified team of professionals suited for cross-border projects.



Firm's reputation and expertise are confirmed by testimonials from transnational clients and leading international ratings.

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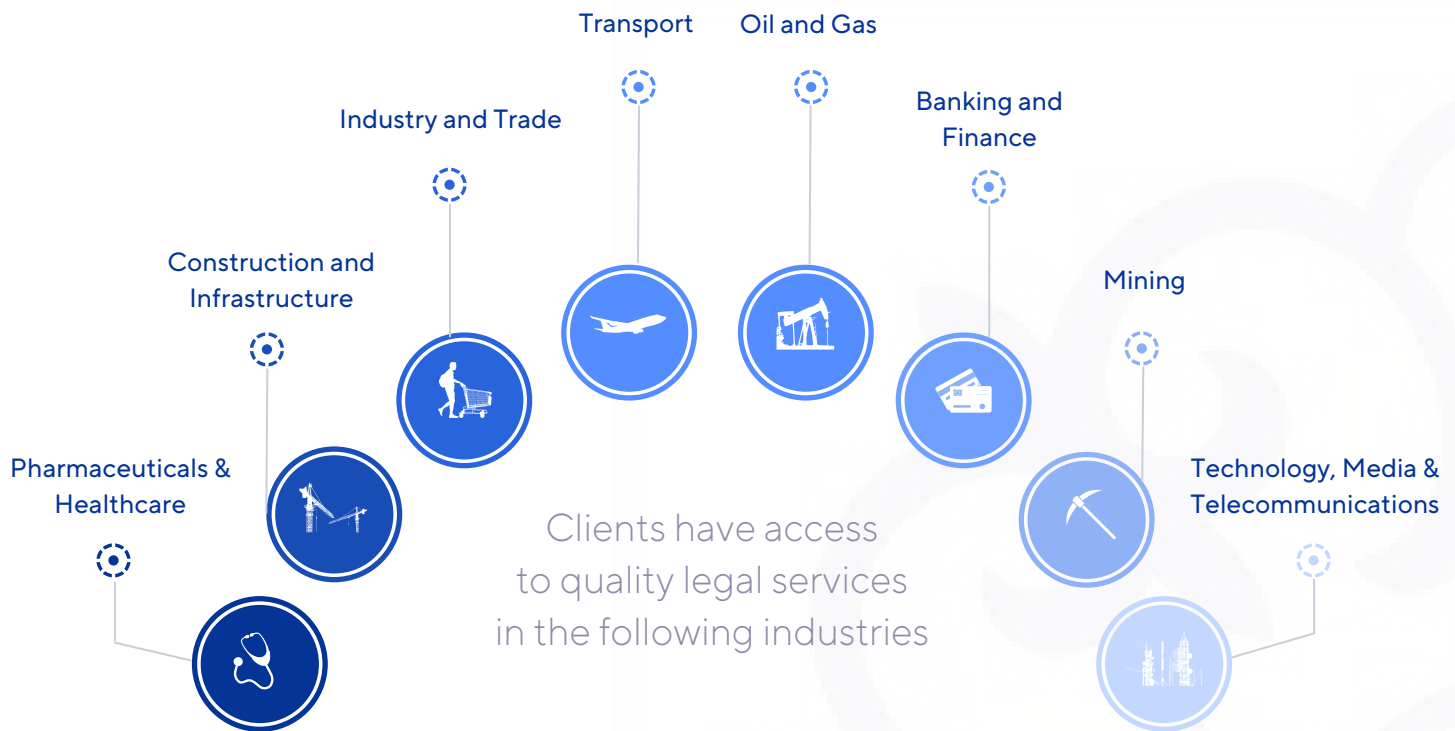
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-  – Commercial Contracts
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-  – International Trade and Customs Law, WTO Law
-  – Subsoil Use
-  – Real Estate
-  – Intellectual Property
-  – Licenses & Permits
-  – Restructuring & Insolvency
-  – Tax Law
-  – The Acting law of the AIFC

Our company successfully passed the procedure of certification of the quality management system and received the conformity certificate ISO 9001:2009.

GRATA International has an insurance certificate for voluntary insurance of civil liability in performance of legal activities.

THE MAIN FORMS OF DOING BUSINESS IN KAZAKHSTAN. CORPORATE GOVERNANCE.



Kazakh legislation provides for a number of forms of incorporation for commercial entities. In practice, local businessmen and foreign investors often prefer forms of incorporation such as a Limited Liability Partnership (LLP (TOO)) or a Joint Stock Company (JSC (AO)). Other forms of doing business in Kazakhstan via branches and representative offices of foreign legal entities are also common.



LLP (TOO)

An LLP (TOO) is the most common incorporation form of a legal entity in Kazakhstan. Subject to certain conventions, an LLP can be called an analogue of a Limited Liability Company in its classic sense. An LLP can have one or more participants.

The LLP participants are not liable for its obligations, but bear the risk of losses associated with the LLP activities to the extent of their personal contributions to the charter capital of the LLP (with certain exceptions). The LLP is liable for its obligations with all property belonging thereto and is not liable for the obligations of its participants.

The required minimum of the charter capital of an LLP is 100 MCI [1] for medium and large businesses. For small businesses, the capital required minimum is not established (i.e., the charter capital may be zero). The participants' shares in the charter capital of the LLP are generally proportional to their contributions thereto. The constituent documents of the LLP, however, may provide for the disproportionality of the shares in the charter capital of the LLP to the contributions of the participants. The participants shall have the pre-emptive right to acquire the shares of the retiring participants.

The following managing bodies shall be formed in the LLP:

-  1) the General Meeting of Participants (Sole Participant);
-  2) the executive body.

[1] MCI - A monthly calculation index established by the State Budget Law for calculating benefits and other social payments, as well as for applying penalties, taxes and other payments in the Republic of Kazakhstan. MCI in 2021 is equal to 2917 Tenge.

The General Meeting of Participants (Sole Participant) is the supreme body of the LLP. The General Meeting of Participants (Sole Participant) makes decisions on the most important issues of the LLP's activities: changes to the charter, formation of managing bodies, distribution of the LLP's net income, reorganisation and liquidation of the LLP, etc.

The competence of the executive body includes all issues of the LLP's activities that are not covered by the competence of the General Meeting of Participants or other bodies of the LLP in accordance with the legislation and/or internal documents of the LLP. The executive body is elected by the General Meeting of Participants (the Sole Participant) and can be sole or collegial.

Besides, a supervisory board and/or an audit commission (auditor) can be created in the LLP by decision of the participants.

JSC (AO)

A JSC (AO) is a legal entity, which issues shares for the purpose of raising funds to perform its activities. The JSC may have one or several shareholders.

Shareholders are not liable for the obligations of the JSC but bear the risk of losses to the extent of their shares (with certain exceptions). A JSC owns assets separated from the assets of its shareholders and is not liable for obligations of the latter. The required minimum of the charter capital of the JSC is 50,000 MCI.

The following bodies shall be formed in the JSC:

- ✚ 1) the General Meeting of Shareholders (Sole Shareholder);
- ✚ 2) the Board of Directors;
- ✚ 3) the Executive body.

The General Meeting of Shareholders is the supreme governing body of a JSC and shall be held at least once a year. The General Meeting of Shareholders (Sole Shareholder) makes decision on the most important matters of the JSC activities such as changes to the charter, increase in the shares number, election of members of the board of directors, selection of the external auditor, reorganisation and liquidation of the JSC, etc.



The Board of Directors carries out the general management of the JSC activities. In particular, the competence of the Board of Directors includes issues such as defining the priority activities and development strategies of the JSC, making the decision to place shares, opening branches and representative offices, election of the executive body, approval of large transactions, etc.

The current operations of a JSC are governed by the Executive Body. The Executive Body can be sole or collective. The Executive Body is entitled to make decisions on any matters of the company, which are not covered by the exclusive competence of other bodies and officers of the company.

Besides, an internal audit service can be created in the JSC by decision of the shareholders.



REPRESENTATIVE OFFICES AND BRANCHES

The representative offices and branches are separate subdivisions of a legal entity (parent company) located outside of its location. Representative offices protect and represent the interests of the parent company, perform transactions and other legal actions on its behalf. The powers of a branch are broader: a branch can perform any functions of the parent company (including production), as well as the functions of a representative office.

Representative offices and branches are not legal entities. They are endowed with property by the parent company and act on the basis of the Regulation approved by it. The activities of the representative office/representative office are governed by the head of the branch/representative office appointed by the parent company and acting under a power of attorney issued by it.

STATE REGISTRATION

The state registration of LLPs and JSCs, as well as the record registration of their representative offices and branches is performed by “Government for Citizens” State Corporation” Non-Commercial JSC. Pursuant to the legislation, the state registration of an LLP or branches/representative offices thereof takes one (1) business day, while registration of a JSC, branches/representatives offices thereof and foreign companies takes 5 business days. State registration with ‘Government for Citizens’ State Corporation’ Non-Commercial JSC also implies automatic registration with tax authorities. The legislation provides for a standard set of documents to be submitted for registration purposes. The documents required for the registration of an LLP, JSC or a branch/representative office can be submitted both on paper and in e-form.

LOCATION (LEGAL ADDRESS)

A legal entity’s location (seat) is the address specified in its constituent documents. In accordance with Kazakh legislation, the address of a legal entity is the location of its permanent body. For the tax purposes, the actual address of a legal entity must be the same as its legal address, otherwise the taxpayer may be subject to administrative penalties.

CORPORATE STAMP AND BANK ACCOUNTS

An LLP and JSC are not required to have a corporate stamp. In practice, however, local companies prefer to have them in place.

Legal entities have the right to open accounts with both local and foreign banks.

COMPARATIVE TABLE OF LEGAL STRUCTURES AND TAXATION

Criteria	Representative office	Branch	Limited Liability Partnership (LLP)	Joint Stock Company (JSC)
Legal Status	not a legal entity	not a legal entity	legal entity	legal entity
Definition	Representative office is a separate subdivision of a legal entity situated outside of its location, which protects and represents the interest of the legal entity, as well as enters into transactions and any other legal actions on its behalf	Branch is a separate subdivision of a legal entity situated outside of its location, which performs all or a part of its functions, including the representational functions.	LLP is an economic partnership, which has its charter capital divided into interests.	JSC is a legal entity, which issues shares for the purpose of raising capital for its activities.
Founders	Parent company (local or foreign)	Parent company (local or foreign)	An LLP can be founded by one or more persons. An LLP may not have as a sole participant another company consisting of a sole participant.	A JSC can be founded by one or more persons.
Restrictions for foreign participants/ shareholders	n/a	n/a	<p>(a) foreigners, stateless persons and foreign legal entities are not allowed directly and (or) indirectly own, use, dispose and (or) control in total more than 49 percent of voting shares of the JSC operating in the area of telecommunications as a long-distance and (or) international communication operator that owns land communication lines without a positive decision of the Government of the Republic of Kazakhstan;</p> <p>(b) foreign individuals and legal entities, as well as stateless persons are not allowed directly and (or) indirectly own, use, dispose and (or) manage more than 20 percent of shares (interests, ordinary shares) of a legal entity - the owner of the media in the Republic of Kazakhstan or activities in this area; and</p> <p>(c) foreign individuals and legal entities, as well as stateless persons are not allowed to be participants in an LLP or shareholders in a JSC that are private security firms.</p>	

<p>Activities</p>	<p>Protection and representation of the interests of the parent company. Has no right to engage in business activities, otherwise there will be tax risks.</p>	<p>All or a part of functions of the parent company as well as protection and representation of the parent company. Has the right to engage in business activities.</p>	<p>An LLP has the right to engage in any activity not prohibited by the legislation of Kazakhstan.</p> <p>Legal entities engaged in banking, insurance or scheduled air services are established exclusively in the form of a JSC.</p> <p>Some activities can be performed by LLP only on the basis of a license / permit.</p>	<p>A JSC has the right to engage in any activity not prohibited by the legislation of Kazakhstan.</p> <p>Auditing organisations are established exclusively in the form of an LLP.</p> <p>Some activities can be performed by JSC only on the basis of a license / permit.</p>
<p>Relevant Foundation Documents</p>	<p>Regulations of the representative office.</p>	<p>Regulations on the branch.</p>	<p>Articles of Association and, where more than one participant, Foundation Agreement.</p>	<p>Articles of Association.</p>
<p>Appropriate Classification of a Business Entity</p>	<p>n/a</p>	<p>n/a</p>	<p>Micro-business entities are small businesses engaged in private business, with an annual average number of employees of not more than 15 individuals, or an average annual income of not more than 30,000 MCI.</p> <p>Small business entities are legal entities engaged in private business, with an annual average number of employees of not more than 100 persons, and an average annual income of not more than 300,000 MCI.</p> <p>Entities engaged in certain activities: activities related to the turnover of narcotic, psychotropic substances and precursors; production and wholesale of excisable products; grain storage etc. do not amount to small business entities</p> <p>Medium business entities are legal entities engaged in private business, with an annual average number of employees between 100 and 250 individuals, and(or) an average annual income between 300,000 MCI but below 3,000,000 MCI.</p> <p>Large business entities are legal entities engaged in private business, with an annual average number of employees of over 250 individuals and(or) an average annual income of over 3,000,000 MCI.</p>	
<p>Taxpayer Status in the Republic of Kazakhstan</p>	<p>Is a taxpayer.</p>	<p>Is a taxpayer.</p>	<p>Has the residency status; and is a taxpayer</p>	<p>Has the residency status; and is a taxpayer</p>

<p>Tax Regime</p>	<p>If operations of the representative office of a foreign legal entity is limited in Kazakhstan to preparatory and auxiliary activities and does not form a permanent establishment, the representative office does not have obligations to pay corporate income tax and value added tax.</p>	<p>If operations of the branch form a permanent establishment, the tax regime applied to the branch is mainly similar to the general tax regime applicable to a Partnership and a Joint-Stock Company, including corporate income tax obligations at a rate of 20% and value added tax at a rate of 12%.</p> <p>However, branches shall additionally pay corporate income tax from net profit (equivalent to the tax on dividends) at a rate of 15%, with a possible rate reduction down to 5%-10%, subject to the relevant convention on avoidance of double taxation. The branch shall pay taxes in Kazakhstan from the income earned in connection with activities in Kazakhstan.</p>	<p>Since the applicable tax regime does not depend on the legal form of a legal entity, the same tax regime applies to both a Partnership and a Joint - Stock Company. The applicable tax regime may vary depending on the sector of the economy where the legal entity (a Partnership or a Joint-Stock Company) operates.</p> <p>A Kazakh legal entity as a tax resident shall pay taxes in Kazakhstan from all of its global income, i.e. received both in and outside of Kazakhstan.</p> <p>As a rule, the income of a tax resident from business activities shall be subject to corporate income tax at a rate of 20% and a value added tax at a rate of 12%.</p> <p>The Tax Code provides separate tax regimes for small businesses, subsoil users, producers of agricultural products and gambling industry.</p> <p>Besides, the Tax Code provides for tax benefits for entities investing in the economy of Kazakhstan (for example, 'rapid depreciation' for newly commissioned buildings, facilities, equipment, as well as tax exemption for fees under financial leasing contracts, VAT exemption in importing equipment, machinery, and vehicles into Kazakhstan according to the list approved by the Government), including projects implemented in special economic zones and individual investment projects.</p>	
<p>Need of Tax Registration and Obtaining of the Individual Identification Number (IIN) for the Director</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<p>Work Permits</p>	<p>Required for all foreign employees/workers other than the head of the representative office.</p>	<p>Required for all foreign employees/workers other than the head of the branch.</p>	<p>Required for all foreign employees working in Kazakhstan, including the director, except for the cases stipulated by the legislation of the Republic of Kazakhstan.</p>	<p>Required for all foreign employees working in Kazakhstan, including the director, except for the cases stipulated by the legislation of the Republic of Kazakhstan.</p>

			In particular, the work permit is not required for the CEO (deputies) of an LLP, where a 100% stake in the charter capital belongs to a foreign person(s).	In particular, the work permit is not required for the CEO (deputies) of a JSC, where a 100% stake in the charter capital belongs to a foreign person(s).
Extent of the Members' Liability	The parent company shall be liable for the obligations of its representative office to the full extent.	The parent company shall be liable for the obligations of its branch to the full extent.	Participants of an LLP bear the risk of losses associated with the activities of the LLP within the value of their contribution. Participants of an LLP may be jointly liable in case of the LLP's deliberate bankruptcy and other cases.	Shareholders of a JSC are not liable for its obligations but bear the risk of losses associated with the activities of the JSC within the value of their shares. Shareholders of a JSC may be jointly liable in case of the JSC's deliberate bankruptcy and other cases.
Charter Capital Required	Not required.	Not required.	The required minimum of the charter capital is 100-fold amount of the MCI for medium and large businesses; and 0 Tenge for small businesses. Contributions to the charter capital of the LLP may be in the form of money, securities, objects, property rights, including use of land right and intellectual property right and other assets. It is not allowed to contribute in the form of personal non-proprietary rights and other intangible assets, as well as by way of setting-off the members' claims to the LLP.	The required minimum of the charter capital is 50,000-fold amount of the MCI. Shares of a JSC can be paid with money, property rights (including rights to intellectual property objects) and other property.
Terms of the state registration	Within one (1) business day following the day of filing the application along with the necessary documents for representative offices of local legal entities.	Within one (1) business day following the day of filing the application along with the necessary documents for branches of local legal entities.	Within one (1) business day following the day of filing the application with along the necessary documents. In case of submission of an e-application - within one hour from the submission moment.	Within five (5) business days following the day of filing the application along with the necessary documents.

	<p>In case of submission of an e-application - within one hour from the submission moment.</p> <p>Within five (5) business days following the day of filing the application along with the necessary documents for the representative offices of non-profit entities, foreign legal entities and joint-stock companies.</p>	<p>In case of submission of an e-application - within one hour from the submission moment.</p> <p>Within five (5) business days following the day of filing the application along with the necessary documents for the branches of non-profit entities, foreign legal entities and joint-stock companies.</p>		
State (Record) Registration Fee	<p>For representative offices of local small businesses - 5,656 Tenge.</p> <p>For representative offices of large and medium businesses and foreign companies - 18 382 Tenge.</p>	<p>For branches of local small businesses - 5,656 Tenge.</p> <p>For branches of large and medium businesses and foreign companies - 18 382 Tenge.</p>	<p>18 382 Tenge for large businesses.</p> <p>State fee is not required for the medium and small businesses.</p>	<p>18 382 Tenge for large businesses.</p> <p>State fee is not required for the medium and small businesses.</p>
Managing Bodies	<p>Head (director) of the representative office.</p>	<p>Head (director) of the branch.</p>	<p>1) the General Meeting of Participants (for the LLP, where 100% of shares in the charter capital is held by a sole participant, the supreme managing body is the Sole Participant; 2) Executive body is a sole or collective body, which is named by the Articles of Association of the LLP. 3) The supervisory and auditing bodies (Supervisory Board, Audit Commission (Auditor)) can be created.</p>	<p>1) the General Meeting of Shareholders (for the JSC, where all voting shares are held by a sole shareholder, such a shareholder is the supreme body); 2) Management body is the Board of Directors; 3) Executive body is a collective body or a person, which solely performs functions of the executive body and is named by the Articles of Association of the JSC. 4) An internal audit service can be created.</p>

Accountant	Not obligatory but recommended.	Not obligatory but recommended.	Not obligatory but recommended, save for the public interest entities [2], as well as branches of banks, insurance (re-insurance) companies, insurance brokers being non-residents.	
Opening Accounts in Foreign Banks	Allowed with obligatory notification of the National Bank of the Republic of Kazakhstan.			
Legal Address	Must			
Comparison	There is no need to create a legal entity in Kazakhstan. At the same time, the scope of the representative office is limited to the protection and representation of the parent company. The responsible for the activities of the representative office is borne by the parent company.	There is no need to create a legal entity in Kazakhstan. At the same time, the scope of the branch is limited to the activities of the head company. The responsible for the activities of the representative office is borne by the parent company.	Simplified procedure for state registration. Flexible capital and management structure. The parent company's liability is limited.	Developed corporate governance system (protection of minority shareholders, increased requirements for information disclosure and liability of officials). At the same time, a JSC has various corresponding obligations not applicable to representative offices, branches and limited liability partnerships. In particular, for JSCs there are increased requirements for state registration, its charter capital, management, and disclosure of information. For example, a JSC must create a board of directors, where 30% of the seats must be given to independent directors. The parent company's liability is limited.

[2] Financial organisations (save for legal entities operating exclusively through exchange offices on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange transactions with foreign currency in cash as well as organisations engaged in microfinance activities created in the form of a business partnership), joint stock companies (except for non-profit ones), subsoil user organisations (except for those producing common minerals), grain-receiving enterprises and organisations, in which charter capitals the state as a share, as well as state enterprises based on the right of economic management.

MERGER CONTROL



Pursuant to the legislation of Kazakhstan, the following shall be recognised as economic concentration:

1

reorganisation of a market entity through M&A;

2

acquisition by a person (group of persons) of voting shares (interest in the charter capital, units) of a market entity, in which such a person (group of persons) obtains the right to dispose of more than 50% of the specified shares (interest in the charter capital, units), if before the acquisition, such a person (group of persons) did not dispose of the shares (interest in the charter capital, units) of this market entity or disposed of 50% or less voting shares (interest in the charter capital, units) of the specified market entity;

3

obtaining in ownership, possession and use, including through payment (transfer) of the charter capital, by a market entity (group of persons) of fixed production assets and(or) intangible assets of another market entity, if the book value of the property being the subject of the transaction (linked transactions) exceeds 10% of the book value of fixed production assets and intangible assets of the market entity alienating or transferring property;

4

acquisition by a market entity of rights (including under a trust management agreement, joint activities agreement, agency agreement) that allows giving binding instructions to another market entity when it conducts business activities or to perform the functions of its executive body; or

5

participation of the same individuals in executive bodies, boards of directors, supervisory boards or other governing bodies of two or more market entities, provided that the specified individuals determine the conditions for conducting business activities in these entities.

The consent of the antimonopoly authority to commit transactions (take actions) specified in paragraphs 1), 2) and 3) above, or notification thereof on transactions specified in paragraphs 4) and 5) above, is required in cases where the aggregate book value of the assets of the reorganised market entities (group of persons) or acquirer (group of persons), as well as a market entity, which voting shares (interest in the charter capital, units) are purchased, or their total sales volume for the last financial year exceeds 10,000,000-fold MCI, established on the date of submission of the application (notification).

INSOLVENCY



The Law 'On Rehabilitation and Bankruptcy' ('Bankruptcy Law') adopted on 7 March 2014 provides for the following insolvency regimes applicable to the insolvent debtor: debt restructuring, rehabilitation, bankruptcy and liquidation without initiation of bankruptcy procedure. Importantly, the Bankruptcy Law does not apply to state enterprises and institutions, pension funds, banks and insurance (reinsurance) organisations that are covered by special bankruptcy regimes.

Restructuring and rehabilitation [3] procedures are aimed to restore the debtor's solvency, while the final liquidation (i.e. bankruptcy) terminates the debtor's activities.

Before the debtor and/or creditors files a petition with the court for applying rehabilitation procedure and/or declaring the debtor as bankrupt, the debtor may make a decision on the debt restructuring.



The debtor may claim for the application of the debt restructuring procedure on the basis of its temporary insolvency [4]. The debt restructuring procedure may be initiated by the debtor in the event of its temporary insolvency provided that no rehabilitation or bankruptcy proceedings have been initiated against the debtor.

Within two months from the effective date of the court decision on the application of the debt restructuring procedure, the debtor must conclude an agreement with all creditors on debt restructuring for a period of not more than three years. A debt restructuring agreement may be concluded on the following conditions: deferral and/or instalment plan for the performance of obligations of the debtor; assignment of rights of claim of the debtor; full or partial forgiveness of debt; write-offs of forfeit (penalties, fines); reduction of interest on loans received; meeting the requirements of the creditor(s) in other ways that do not contradict the legislation of the Republic of Kazakhstan.

[3] Both procedures may be applied to commercial entities only.

[4] Insolvency is temporary if at the date of filing a claim, one or more of the following circumstances takes place:

1) obligations to creditors on claims for compensation for harm caused to life and health, collection of alimony, obligation to pay salary, compensation under employment contracts, social security contributions to the State Social Insurance Fund, obligatory pension contributions and obligatory professional pension contributions, deductions and/or contributions for compulsory social health insurance, as well as rewards to authors for official inventions, utility models, industrial designs are not performed within three months from the due date);
2) obligations to other creditors are not performed within four months from the due date.

From the date of entry into legal force of the court decision on debt restructuring, the following consequences occur:



termination of accrual of penalty (late fee, fines) for all types of the debtor's arrears;



release of all state authorities' restrictions on the debtor's accounts without relevant decisions of the authorities that imposed them;



termination of execution of previous court decisions, arbitral awards, except for payments to citizens, to whom the debtor is liable for causing damage to their life or health without account of claims of compensations for non-pecuniary damage, which became due after the conclusion of the debt restructuring agreement;



imposition of new arrests on the debtor's property and other restrictions on the disposal of its property is permitted only with regard to claims, brought against the debtor, for recognising the transaction to be invalid and reclamation of property from unlawful possession.

The debtor may file for rehabilitation if he or she is either temporary insolvent or unable to meet his or her monetary obligations to the creditors within three months from the due date, and contractual obligations to creditors – within four months after the due date. Creditors may file for rehabilitation if the debtor is insolvent. An insolvent debtor is entitled to apply to the court for the suspension of the bankruptcy proceedings and the introduction of the rehabilitation procedure within 7 business days of the date it received a copy of the court ruling on the initiation of bankruptcy proceedings. A mandatory prerequisite for the rehabilitation is that the debtor must be able to improve his or her financial position.

The temporary administrator sends to the competent authority an announcement on the initiation of proceedings in the case of rehabilitation and the procedure for filing claims by creditors to post it on the Internet resource of competent authority in the Kazakh and Russian languages within two business days from the date of initiation of rehabilitation proceedings.

Creditors' claims against the debtor must be filed thereby no later than one month from the date of publication of the announcement on the procedure for filing claims by creditors.

The temporary manager shall, no later than two months from the date of appointment, form a register of creditors' claims in the Kazakh and Russian languages in the manner, term and in the form established by the competent authority.

The rehabilitation plan shall be developed by the debtor in cooperation with the creditors within three months from the moment when the court decision on introduction of rehabilitation procedure becomes effective. Within rehabilitation procedure creditors may decide to deprive existing shareholders and pass management over the debtor to a specially appointed rehabilitation manager. All creditors may make their claims only within rehabilitation proceeding and may not file for bankruptcy. The term for the rehabilitation plan exercise shall not exceed five years.

The transition from the rehabilitation to the bankruptcy procedure is based on a court decision to terminate the rehabilitation procedure, recognition of the debtor as a bankrupt, and liquidation thereof with initiation of bankruptcy proceedings. The rehabilitation manager shall, within ten business days from the date of the decision of the meeting of creditors, file a claim with the court for termination of the rehabilitation procedure, declare the debtor as bankrupt and liquidate it with the initiation of bankruptcy proceedings, if in the course of the rehabilitation procedure, it is found that the debtor refers to III class of financial stability and there are grounds for declaring it bankrupt. The ground for the debtor to file a claim with the court for declaring it bankrupt and liquidate with the initiation of bankruptcy proceedings is the debtor's persistent insolvency [5].

THE TENOR OF A BANKRUPTCY PROCEDURE SHALL NOT EXCEED NINE MONTHS AND MAY BE EXTENDED BY THE MEETING OF CREDITORS UP TO TWO YEAR ON THE FOLLOWING GROUNDS:



the case at hand affecting the property interests of the debtor and its creditors;



the need to eliminate violations of the legislation of the Republic of Kazakhstan indicated in the court ruling on the refusal to approve the final report;



the presence of unsold property;



the need to eliminate violations of the legislation of the Republic of Kazakhstan identified by the competent authority.



A RESOLUTION OF THE COURT ON THE BANKRUPTCY OF THE DEBTOR RESULTS IN THE FOLLOWING LEGAL IMPLICATIONS:





1. the debtor may not use and realise its property and discharge obligations;
2. all debt obligations shall be considered as due;
3. the accrual of fines and interests on all obligations of the debtor is terminated;
4. all court disputes of a proprietary nature in relation to the debtor are terminated, if the judgements thereon have not become effective yet;
5. all claims may be made against the debtor only in bankruptcy proceeding (except claims where third persons are acting as guarantors or pledgors);
6. all arrests and liens on the debtor's property are eliminated upon application of administrator; and g any new arrests on the property of the debtor may be imposed only in case of claims for invalidation of the transaction and reclamation of property from illegal possession of the debtor.

Before filing an application to the court for declaring a bankrupt, the applicant (debtor or creditor) shall enter into an agreement on the exercise of the powers of a temporary administrator with the person, whose notification is included in the register of notifications of persons entitled to act as an administrator. Where the applicant is a creditor for taxes and customs payments or a state authority or a legal entity with the state participation, an agreement on the exercise of the powers of a temporary administrator is not required. The task of the temporary manager at this stage is to collect information, as well as to present an opinion on the financial stability of the debtor to the court.

[5] Insolvency is persistent, if the debtor's obligations exceed the value of its property as of the date of filing the claim with the court and at the beginning of the year, in which the claim is filed, as well as at the beginning of the year preceding the year of filing the claim, if the debtor filed the claim in the first quarter of the calendar year.

Within 5 business days from the date of filing the bankruptcy petition, the court initiates a case or returns the petition in case of non-compliance with the form and filing procedure.

From the day the court ruling to initiate a bankruptcy case and until the end of its consideration, the temporary administrator shall:

-  collect details on financial status of the debtor on the basis of documents of business accounting and financial accountability for the purpose of developing the opinion on financial stability;
-  provide the court with the opinion on debtor's financial stability;
-  notify all the creditors on the date and place of the first meeting of the creditors;
-  perform other duties stipulated by the legislation of Kazakhstan.

In order to form a register of creditors' claims, a temporary administrator shall, no later than two business days from the date of the court's ruling to initiate a bankruptcy case, and if the applicant is a creditor for taxes and customs payments or a state body or legal entity with the state participation - from the date its appointment, send to the competent authority an announcement on the initiation of bankruptcy proceedings and the procedure for filing claims by creditors in the Kazakh and Russian languages to post it on the Internet resource of the competent authority.

Creditors' claims to the bankrupt must be declared within one month from the date of publication of the announcement on the procedure for filing creditors' claims.

Creditors' claims shall contain information on the claim amount, as well as an indication of one of the ways of notifying the meeting of creditors. The temporary administrator or bankruptcy manager shall specify in the notice of acknowledgement of the creditors' claims (in full measure or in a part) the date, time, place and agenda of the first creditors' meeting. The temporary administrator shall send the formed register of creditors' claims, as well as the list of creditors whose claims have not been acknowledged, to the competent authority no later than three business days from the date of the register formation for placing on website of the competent authority. Please note that the first meeting of creditors shall be held by a temporary manager within twenty business days from the date of declaring the debtor as bankrupt.

Upon the court decision on declaring the debtor as bankrupt, the temporary manager shall transfer constitutive documents, financial statements, entitling documents to a bankrupt's property, seals, stamps, material and other values belonging to the bankrupt to the bankruptcy manager.

Upon resolution of the court on the bankruptcy of the debtor, the bankruptcy manager realises the debtor's property through public auction and satisfies the claims of the creditors included on the register of creditors' claims in the following order of priority:

1. administrative and court expenses;
2. claims under health or life damage obligations, recovery of alimony, payment of remuneration and compensations to persons who worked under employment agreements, social insurance and pension payments, payments and(or) contributions for compulsory social health insurance, payment of remuneration to authors for an employee's invention, utility model, industrial design;
3. secured creditors' and clearing houses' claims;
4. claims for repayment of tax debt, as well as the debt for customs payments, special, antidumping, commission duties, interests;
5. claims of other creditors;
6. claims for damages and fines (penalties), as well as labour remuneration and compensations; and
7. claims of creditors files later than one month after the publication of the announcement on the procedure for filing claims by creditors.

After the creditors' claims are satisfied, the bankruptcy manager shall submit to the court the final report on its activity approved by a meeting of creditors along with the liquidation balance sheet and the report on the use of property left after the satisfaction of creditors' claims, which is to be approved by the court. Then, the bankruptcy procedure is subject to completion. Liquidation of a bankrupt is deemed completed, and a bankrupt – liquidated after making the relevant entry in the state registers of legal entities or deregistration of an individual from as a businessman, except as otherwise provided by the Bankruptcy Law. Besides, the liquidation of the debtor may be performed without initiating bankruptcy proceedings, in cases where the debtor is absent; there is a combination of the following circumstances in relation to the debtor:

- 1) the debtor has a debt to creditors not exceeding 2,500 MCI established for the corresponding financial year by the law on the republican budget;
- 2) within three years before filing the claim, the debtor did not have property on the right of ownership, as well as receivables;
- 3) within three years before filing the claim, the debtor did not make transactions that upon their completion could be invalidated on the grounds provided for by this Law and other laws of the Republic of Kazakhstan;
- 4) within three years before filing the claim, the debtor did not make payments and(or) money transfers to bank accounts and cash desk;
- 5) within three years before filing the claim, the debtor was not included in the schedules of tax and customs audits and other forms of control established by the tax and customs legislation of the Republic of Kazakhstan;
- 6) as of the date of filing the claim, the criminal prosecution authorities do not conduct a pre-trial investigation against the founder (participant) of the legal entity or its official, as well as a businessman, for committing a criminal offense related to the debtor's activities.

Within five business days after the receipt of the claim for the debtor's liquidation without initiating bankruptcy proceedings, the court shall issue a ruling on initiating proceedings. Then the court, within five business days, shall make a decision on liquidation of the debtor without initiating bankruptcy proceedings. The competent authority engaged in such liquidation shall:

- 1) no later than within two business days, place an announcement on the debtor's liquidation without initiating bankruptcy proceedings and the procedure for filing claims by creditors in the Kazakh and Russian languages on the Internet resource of the competent authority;
- 2) form a register of creditors' claims;
- 3) submit to the court for approval the final report and the liquidation balance sheet no later than two business days after the approval by the meeting of creditors;
- 4) send to the bank, the organisation performing certain types of banking operations, an application for the closure of bank accounts of the bankrupt no later than three business days after the final report approval by the court.
- 5) submit to the meeting of creditors for approval a final report and a liquidation balance sheet, in case when the debtor does not have property;
- 6) file a claim with the court for initiating bankruptcy proceedings upon detection of the property mass and(or) return of previously derived property to the property mass in the course of conducting liquidation of the debtor, as well as upon detection of the absence of grounds for applying liquidation without initiating bankruptcy proceedings.

In this case, when the owner of property or a body of legal entity makes the decision on its liquidation, and the cost of property is insufficient for satisfying the creditors' claims in full, the liquidation commission shall file a petition to the court for declaring the debtor as bankrupt. If the court declares the debtor as bankrupt, liquidation of the debtor shall be performed in the standard bankruptcy procedure.

BANKRUPTCY OF INDIVIDUALS



The Law of the Republic of Kazakhstan 'On Restoring the Solvency and Bankruptcy of Citizens of the Republic of Kazakhstan' is being introduced as of March 2023. The law regulates social relations arising in case of insolvency of a citizen of the Republic of Kazakhstan, establishes grounds for the initiation of solvency restoration procedure, as well as court and out-of-court bankruptcy procedures and conditions thereof. It, therefore, aims at the rights protection for individuals experiencing difficulties in paying loans.

The out-of-court bankruptcy procedure is a procedure carried out in respect of the debtor out of court to terminate liabilities to second-tier banks, branches of a non-resident bank, organisations engaged in certain types of banking operations, and those engaged in microfinance activity, or collection agencies in accordance with the Law.

GROUND FOR FILING TO THE COMPETENT AUTHORITY A PETITION FOR APPLICATION OF OUT-OF-COURT BANKRUPTCY PROCEDURE ARE AS FOLLOWS:

-  a debt of less than 1,600 MCI (5,520,000 tenge in 2023).
-  no property under the right of ownership, including property in common ownership
-  no repayment of debts to creditors indicated in the petition during twelve consecutive months as of the petition date.
-  procedures on settlement and(or) collection of outstanding liabilities under a bank loan agreement and(or) microcredit agreement in accordance with laws of the Republic of Kazakhstan 'On Banks and Banking Activity in the Republic of Kazakhstan' and 'On Microfinance Activity' were implemented in respect of the debtor.
The debt settlement and/or recovery measures referred to in this paragraph shall be taken within a period not exceeding eighteen months from the occurrence of overdue indebtedness.
-  failure to apply the court or out-of-court bankruptcy procedure within seven years on the petition date.

The debtor's petition for the out-of-court bankruptcy procedure shall go with:

- 1) a list of creditors indicating their name, debt amount, location;
- 2) copy of document confirming that the debtor has taken measures to settle and(or) recover debts under a bank loan agreement and(or) microcredit agreement (refusal of the second-level bank, branch of non-resident bank, organisation engaged in certain banking operations and(or) those engaged in microfinance activity to change terms and conditions of the bank loan agreement and(or) microcredit agreement with indication of the reasons)

In case of the failure to provide the procedure approval in reply to the debtor's petition, the debtor may submit a copy of the petition or filing confirmation in e-format.



If the debtor meets the criteria, the competent authority shall post the debtor details in the e-government web-portal within fifteen business days.

The period for conducting the out-of-court bankruptcy procedure by the competent authority shall be six months from the date of posting the debtor details on the e-government web portal.

The debtor details posting on the e-government web portal involves the following consequences:

- 1) the debtor's debt obligations to the creditors specified in the petition for the out-of-court bankruptcy procedure shall be deemed to have expired;
- 2) the creditors indicated in the petition for the out-of-court bankruptcy procedure are prohibited to claim from the debtor to perform liabilities;
- 3) penalties (fines) and compensation of all types of debts of the debtor to the creditors indicated in the petition for out-of-court bankruptcy procedure are no longer accrued;
- 4) the debtor is prohibited to undertake new monetary or property obligations (except for getting micro loans from pawnshops);
- 5) the debtor consent to receive information on his/her property, including common joint property, by the competent authority from state authorities and other agencies and organisations for the period of up to three years preceding the petition for the out-of-court bankruptcy procedure shall be deemed provided;
- 6) it is not allowed to collect money from the debtor's bank accounts to satisfy the creditors' claims;
- 7) the execution of the debt recovery judgements shall be suspended.

The solvency restoring or judicial bankruptcy procedure is a court-applied procedure where financial, legal and other measures not contradicting the legislation of the Republic of Kazakhstan are applied in respect of the debtor to restore his/her solvency;

The grounds for filing a petition to the court for the solvency restoring or judicial bankruptcy procedure are the same as for the out-of-court bankruptcy procedure; the only thing is that in this case the debtor must have property under the right of ownership, including property in common ownership (while the out-of-court bankruptcy procedure requires there must be no property).

The debtor whose total liabilities (including those that have not matured yet) do not exceed the value of the property owned thereby may only apply to the court for the solvency restoring procedure.

A petition for solvency restoring or judicial bankruptcy procedure shall be filed by the debtor to the court at his/her place of residence in writing or as an e-document.

The following documents shall be attached to such a petition:



01

List of all creditors and debtors (with indication of the amounts owed and date of their formation, residence or location address, e-mails and contact phone numbers (where available) for their further notification);



02

Inventory of the debtor's property with the appraisal report (if any), drafted not later than six months preceding the bankruptcy petition;



03

List of civil and(or) other liabilities, including those related to the obligation, which claims are secured by the pledge of the debtor's property, for the last three years preceding the petition for solvency restoring or judicial bankruptcy procedure



04

Copy of the document confirming that the debtor has taken measures on settlement of debts under a bank loan agreement and(or) microcredit agreement (TQ copies).

The court shall within ten business days following the petition rule to initiate the solvency restoring or judicial bankruptcy procedure.

Within two business days from the date of the court ruling, the competent authority shall appoint a financial manager.

Within two business days from the date of appointment of financial manager by the competent authority, it shall send an announcement to the competent authority in Kazakh and Russian languages on initiation of the solvency restoring and judicial bankruptcy procedure and procedure for filing creditors' claims to be further placed in the Internet-portal.

The competent authority shall post the announcement on its website within two business days upon receipt.

Creditors' claims against the debtor must be declared within twenty business days after the publication of a notice on the initiation of the solvency restoring or judicial bankruptcy procedure and the procedure for filing claims by creditors on the internet site of the competent authority.

A financial manager shall make an inventory of the debtor's property within ten business days from the date of the court ruling on the initiation of the solvency restoring or judicial bankruptcy procedure.

The financial manager shall within twenty business days from the date of the court ruling on the initiation of solvency restoring or judicial bankruptcy procedure draft an opinion and submit it to the court.

The period for implementation of the solvency restoring plan must not exceed five years.

The term of the bankruptcy proceedings shall not exceed six months from the date of entry into legal force of the court ruling for the application of the bankruptcy procedure. This period may be extended by the court for not more than next six months.

The financial state of the bankrupt shall be monitored by the competent authority within three years after the adjudication of the debtor's bankruptcy.

From the date of the ruling on the initiation of solvency restoring or judicial bankruptcy procedure, the following consequences occur:

- 1) the debtor's debt obligations specified in the petition for the solvency restoring or judicial bankruptcy procedure shall be deemed to have expired;
- 2) the creditors indicated in the petition for the solvency restoring or judicial bankruptcy procedure are prohibited to claim from the debtor to perform liabilities;
- 3) penalties (fines) and compensation on all types of debts of the debtor to the creditors indicated in the petition for solvency restoring or judicial bankruptcy procedure are no longer accrued;
- 4) the debtor is prohibited to undertake new monetary or property obligations (except for getting micro loans from pawnshops);
- 5) the debtor consent to receive information on his/her property by the creditors from state authorities and other agencies and organisations shall be deemed provided;
- 6) the debtor is prohibited to depart from the Republic of Kazakhstan, except for the case when medical treatment, accompany a close relative for treatment, conducting burial of a close relative outside of the Republic of Kazakhstan is needed;
- 7) it is not allowed to collect money from the debtor's bank accounts to satisfy the creditors' claims as well as to levy execution on the debtor's property;
- 8) claims may be brought against the debtor only within the solvency restoring or judicial bankruptcy procedure, except for the case provided by paragraph 2 hereof;
- 9) execution of earlier court decisions regarding the debtor's property shall be suspended;
- 10) execution of decisions of state authorities, other agencies and organisations, whereby the debtor is obliged to transfer the property, make payment or otherwise fulfil property obligations, shall be suspended.

KEY POINTS:

1. Transactions shall be deemed invalid if they have been committed by a debtor or authorised person thereof within three years preceding the initiation of solvency restoring and judicial bankruptcy procedure provided that there are grounds stipulated by the civil legislation of the Republic of Kazakhstan.
2. When the debtor fails to perform his/her obligations, secured by a guarantee, surety or pledge of third parties, initiation of the solvency restoring or judicial bankruptcy procedure does not prevent a creditor from filing claims against guarantors, sureties and pledgers for the debtor's failure outside the case on application of the solvency restoring or judicial bankruptcy procedure.
3. The decision on the application of solvency restoring or judicial bankruptcy procedure shall be taken by the court in view of the opinion by financial manager.
4. Plan of solvency restoration contains any financial, legal and other measures not contradicting the legislation of the Republic of Kazakhstan, aimed to restore solvency of the debtor, taking into consideration received income and current expenses, as well as schedule of creditors claims and money left by the debtor in its disposal every month.

LABOUR RELATIONS

TRENDS



The fundamental legal act regulating labour relations in the Republic of Kazakhstan is the Labour Code. A distinctive feature of the current Labour Code as effective from 2016 is the liberalisation thereof.

In other words, the Code provides that the parties to labour relations may agree on the application of certain rules and their content, which in general makes labour relations more flexible. Another feature of the Code is its dynamic evolution in response to innovations, the economy needs and international best practice. In particular, following the Covid-19 pandemic the Code has been promptly supplemented to detail the remote work mode which has allowed more companies to apply it. The Labour Code has a number of unique provisions, which do not exist in laws of any post-Soviet country. For instance, the Labour Code provides for an obligatory, consistent and pre-trial procedure for the settlement of labour disputes (both individual and collective), which allows the parties to promptly localise a conflict at company level without interruption of production and other negative consequences, and has minimised the number of disputes handled by the courts. The Labour Code provides for an option for parties to enter into a non-compete agreement, which shows Kazakhstan's orientation towards advanced, international mechanisms for regulating labour relations. The importance of the social partnership mechanism defined in the Code, which obliges parties to labour relations to enter into a collective agreement and comply with the terms of industry and regional agreements that provide the parties with additional rights and obligations in view of the industry and region specific, is increasing every year in Kazakhstan.

THE MILESTONES OF EMPLOYMENT RELATIONSHIPS



The basis for labour relations is an employment agreement, which may be signed either in writing or in the e-form certified by the electronic digital signature.



The content of the employment agreement is regulated by the Labour Code. The Labour Code contains articles specifying features of labour relations with managers of companies, socially protected categories of employees, disabled people, etc.



Before entering into an employment agreement the employee must submit a set of relevant documents.



An employment agreement can be signed for an indefinite period, as well as for a period of at least one year, for the duration of a certain job, for the period of substitution of a temporarily absent employee, and for the term of a permit to engage foreign labour (hereinafter – the 'work permit').



When signing an employment agreement, employees may be subject to a probationary period of one (1) to six (6) months, depending on the category of the employee.





Taking into account the role and job duties, the employer may additionally sign an individual material liability agreement, a non-disclosure undertaking and a non-compete agreement with the employee. When hiring, it is important to introduce the job description and the company's code of conduct to the employee.

For foreign employees, a work permit and work visa shall be first obtained (before entering into the employment agreement). The procedure and timing for obtaining a work permit is approximately 1.5 months. The issue and(or) extension of work permits depends on the competence, qualifications and positions (managerial or not) of foreign personnel, as well as on the ratio of foreign and Kazakh personnel in the company. The legislation provides some exceptions when such a ratio is not required.

The main condition for granting a work permit is the compliance of the qualifications of a foreign employee with the requirements established by the legislation of the Republic of Kazakhstan (required experience, appropriate education certificates).

The term of work permits varies from 1 to 3 years, which can be further extended.

A number of categories of foreign citizens can engage in labour activities in the Republic of Kazakhstan without a work permit, including:

-  citizens of the states that are parties to the Treaty on the Eurasian Economic Union;
-  directors of branches or representative offices of foreign legal entities, as well as directors (deputies) of Kazakh legal entities with 100% foreign participation;
-  those, who are in a business trip for business purposes, the period of which does not exceed a total of 120 calendar days within one calendar year;
-  directors of organisations that concluded with the Government of the Republic of Kazakhstan investment contracts for investments over 50 mln US dollars and directors of Kazakh legal entities engaged in investing in priority activities and signed the contract with the competent investment authority.

Hiring procedure involves an order issued by the employer. Upon issue of the order, the employer shall ensure the registration of the employee's employment agreement in the Unified Employment Contracts Accounting System. In the future, the specified system should also reflect information on the transfer of the employee to another job, as well as on the termination of the employment agreement.

In the course of labour activities, the employer shall keep monthly records of the employees' working hours using time sheets. The Labour Code provides for the following working time regimes for employees:

- 5-day or 6-day working week;
- remote work (combined-remote work);
- rotation-based work;
- flexible working hours.

The total duration of an employee's working hours shall not exceed 40 hours a week; for employees working in hazardous working conditions and persons with disabilities, a shortened 36-hour working week is established. The Labour Code also provides for a maximum amount of overtime work.

The minimum duration of the employee's annual labour leave is 24 (twenty four) calendar days. Besides, the legislation provides for additional labour leave for some cases or certain categories of employees.

The employer shall provide women with maternity leave for a total of 126 calendar days. The said leave is paid by the state. Also, at the employee's request (man or woman), the employer shall provide an unpaid leave to care for a child until he/she reaches the age of 3 years.

Salary shall be paid on a monthly basis in the national currency of the Republic of Kazakhstan (tenge). The Labour Code provides for requirements for the salary payment deadline. In addition to the payment of basic salary, an employer shall pay additional payments and compensations to employees, for example, payment for a period of temporary disability, overtime work, work on holidays (weekends), night work, layoff and winding-up compensations,, etc.

 **When calculating salary, an employer shall bear the following types of taxes (deductions):**

- pension contributions - 10%
- individual income tax - 10%
- health insurance deductions - 4%
- health insurance contributions – 2%
- social contributions - 3.5%
- social tax - 9.5%

In the course of labour activities, an employer shall insure employees against accidents in the performance of their labour (official) duties as well as ensure internal health and safety control.

Some companies engaged in production are required to have an occupational health and safety service in their organisational structure. While for other companies it is sufficient to have only one health and safety specialist on staff.

All changes to the employment agreement, including the transfer of employees to another job, can be made only by mutual agreement of the parties. If there are certain reasons, an employer can initiate a change to the working hours, the size of the salary of employees, etc.

 **The Labour Code provides for certain grounds, procedures and terms for termination of an employment agreement. In particular:**

- termination of an employment agreement upon agreement between the parties;
- termination due to the expiry of the validity term of an employment agreement;
- termination of an employment agreement at the employer's initiative;
- in connection with the transfer of the Employee to another Employer;
- termination of an employment agreement at the employee's initiative;
- force majeure circumstances;
- refusal of the employee to continue the labour relations;
- transfer of an employee to the elective position or appointment thereof to the position that eliminates the possibility to continue labour relations, except for the cases provided for by the laws of the Republic of Kazakhstan;
- breach of the terms and conditions provided for the conclusion of an employment agreement.

Thereat, special attention the Code pays to the termination of an employment agreement at the employer's initiative. This termination option has twenty-nine (29) grounds. The application of any of these grounds implies compliance by the employer with certain procedures and restrictions.

In particular, an employer does not have the right to lay off the staffing positions of pregnant women, women with children under the age of three years, single mothers raising a child under the age of fourteen (a disabled child under the age of eighteen), other persons raising the specified category of children without a mother.

LABOUR DISPUTES



Failure to comply with the established procedure for dismissal may cause an individual labour dispute with the employee. All individual disputes, including disputes related to illegal dismissal, are to be resolved sequentially: first in the conciliation commission, and then (in case of disagreement with the decision of the conciliation commission) - in court. Besides, the parties to the dispute shall take part in conciliation procedures at the stage of filing a claim with the court.



The Conciliation Commission is a permanent body created by an employer in the company, its branches and representative offices of an equal proportion of employer representatives and employees' representatives. Pursuant to the Labour Code, the representatives of employees are the bodies of trade unions, and in their absence, the elected representatives of the employees. The operation of employee representatives shall be regulated by the Labour Code and the collective agreement.



State control over compliance with the labour legislation of the Republic of Kazakhstan is performed by state labour inspectors. Failure by employers to comply with labour legislation is the basis for the application of penalties provided for by the Code of the Republic of Kazakhstan on Administrative Offenses. The penalties are provided for late salary payment, failure to provide employees with labour leave (or a part thereof) for more than two successive years, failure to meet the established working schedule, failure to comply with the terms of collective agreements and social partnership agreements, violation of HS requirements, etc.

BUSINESS AUTHORISATIONS



In order to perform certain activities or operations in the territory of the Republic of Kazakhstan, private business entities are required to obtain a licence or permit, or to send a notice to the relevant state authority. In other words, the legislation of the Republic of Kazakhstan establishes an licensing and notification procedure for performing activities or operations. The Law of the Republic of Kazakhstan 'On Permits and Notices', dated 16 May 2014, defines a list of activities and operations that require a licence or permit, or a notice, and governs the implementation of the licensing or notification procedure.

The law provides for more than 400 types of activities and operations that require a licence or permit, and over 50 types of activities and operations that may be commenced or terminated upon notification to the relevant state authorities.

In general, the need to obtain a licence, permit or file a notice depends on the hazard level of the activity or operation(s) to be performed.

A high hazard level requires a licence, a medium hazard level a permit, and a low hazard level - a notice. Licensing is required for the activities or operations associated with the most significant risks. Currently, licences are required in Kazakhstan for certain activities in the following main areas: industry, hydrocarbons, use of nuclear energy, turnover of toxic substances, transport, turnover of weapons and military equipment, information and communication, agriculture, education, health care, gambling, finance, construction, alcohol and tobacco products, export and import of goods.



To obtain a licence, the applicant shall meet the qualification requirements and pay a licence fee. To obtain a permit, the applicant must meet the permissive requirements and, in some cases, pay a permit fee. The applicant's compliance with the qualification or permissive requirements is verified by the relevant state authority when issuing the licence or other permit. When accepting a notice, where it is filed as a hard copy, the receiving authority checks that it is complete. In cases provided by law, the notice shall be filed with certain documents attached and in this case the receiving authority shall check their availability. When the notice is filed in e-form, the completeness thereof and the availability of all required documents shall be checked automatically. By submitting the form of information in cases specified by law, applicants declare their compliance with the requirements of the law for performance of the activities or operations, in which respect the notice is being filed. Notices are accepted free of charge.

Commencing and performance of activities or operations without the required licence, permit or notice filed to a state authority shall not be allowed. Violation of this requirement causes administrative and criminal liability under Kazakhstan law, including fines, correctional and community service, restriction or deprivation of freedom. Besides, these violations may lead to the confiscation of proceeds (dividends), money, securities and property resulted from the violation.



INVESTMENTS INCENTIVES. CUSTOMS AND TAX PREFERENCES.

INVESTMENT PROJECTS

There are investment preferences in Kazakhstan granted in the form of general and targeted tax preferences.

General preferences include governmental grants-in-kind and options to engage labour outside quotas and permits. They can be applied by any investor.

Targeted tax preferences are granted under investment contracts [6] between investors and the Government of Kazakhstan, when implementing an investment project, an investment priority project or a special investment project in the form of:

- 1) corporate income tax (CIT) exemption;
- 2) land tax exemption;
- 3) property tax exemption;
- 4) exemption from value added tax (VAT) on import;
- 5) customs import duties exemption;
- 6) accelerated depreciation of fixed assets;
- 7) deferral of CIT and property tax payments;
- 8) as well as granting the right to stability of the tax regime applied to investment activities;
- 9) reduction in tax liabilities for 20% of incurred costs.

Depending on the type of an investment project being implemented, the set of tax incentives and duration of their application may vary in time. Investors can apply targeted tax preferences together with general preferences.

SPECIAL ECONOMIC ZONES

The tax code also provides for tax incentives for special economic zones (hereinafter – the 'SEZ').

There are 13 SEZ in Kazakhstan:

- 1) 'Astana, The New City' in Astana;
- 2) 'Astana-Technopolis' in Astana;
- 3) 'National Industrial Petrochemical Technopark' in Atyrau region;
- 4) 'Aktau Seaport' in Aktau, Mangistau region;
- 5) 'Park of Innovation Technologies' in Almaty;
- 6) Ontustik' in Sairam district of South Kazakhstan region;
- 7) 'SaryArka' in Karaganda;
- 8) 'Khorgos-East Gates' in Almaty region;
- 9) 'Pavlodar' in Pavlodar;
- 10) 'Taraz Chemical Park' in Jambyl region;
- 11) Khorgos International Centre of Boundary Cooperation in the Kazakhstan/China frontier zone;
- 12) 'Qyzyljar' in Petropavl;
- 13) 'Turkistan' in Turkestan.

These zones are generally exempted from income tax, land tax, fee for land use, and property tax. In addition, the sale of certain goods in the SEZ territory which are used for the specific purpose of the relevant SEZ are subject to VAT at a rate of '0%'.

Thereat, goods, works, services sold in the territory of 'Khorgos International Centre of Boundary Cooperation' SEZ are subject to full VAT exemption. In addition, participants of 'Park of Innovation Technologies' SEZ are provided with benefits regarding social tax.

[6] Tax preferences are also provided on the basis of investment agreements in the implementation of investment or investment priority projects.



ASTANA HUB INTERNATIONAL TECHNOLOGY PARK

Astana Hub International Technological Park (hereinafter - 'Astana Hub') is an international information technology park.

ASTANA HUB OFFERS THE FOLLOWING BENEFITS^[7]:

- 1) CIT exemption for Astana Hub members;
- 2) IIT exemption for Astana Hub members in respect of earned income of their employees;
- 3) social tax exemption for Astana Hub members in respect of the income of their Kazakh employees;
- 4) VAT exemption for Astana Hub members in respect of goods, works and services sold;
- 5) VAT exemption for Astana Hub members in respect of imports of certain goods;
- 6) exemption for Astana Hub members from VAT on behalf of a non-resident;
- 7) exemption of non-residents from CIT withheld at a source paid by Astana Hub members for consulting, marketing, engineering and other services;
- 8) exemption of residents and non-residents from CIT/CIT withheld at source in relation to income from value growth received by them on sale of participatory interests/shares in a member of the Astana Hub.



ASTANA INTERNATIONAL FINANCIAL CENTRE

The Astana International Financial Centre ('AIFC') is a territory subject to a special legal regime in the financial sector.

AIFC OFFERS THE FOLLOWING BENEFITS ^[8]:

- 1) CIT exemption for AIFC members in respect of certain financial services;
- 2) CIT exemption in respect of the income of foreign employees of AIFC members providing certain financial services;
- 3) exemption of AIFC members providing certain financial services from land tax on land plots located in the territory of AIFC;
- 4) exemption of AIFC members providing certain financial services from property tax in respect of the property located in the territory of AIFC;
- 5) VAT exemption for AIFC members providing certain financial services;
- 6) exemption of residents and non-residents from taxation of dividends and capital gains received thereby in respect of participatory interests/shares in an AIFC member;
- 7) exemption of residents and non-residents from taxation of dividends, remuneration, and capital gains received thereby in respect of AIX-listed securities.

^[7] These benefits are applicable before 1 January 2029.

^[8] These benefits are applicable before 1 January 2066, except for VAT exemption.



TAX AND CUSTOMS REGULATION IN THE EAEU.



The EAEU countries, in mutual trade in goods, collect indirect taxes (VAT and excise taxes) by the principle of the country of destination. Under this principle, the export of goods from one EAEU country to another shall be subject to VAT on exports at a rate of 0%, and shall also be exempted from excise taxes. At the same time, the import of goods shall be subject to import VAT at rates that should not exceed the rates those applied to the same goods in the territory of the country of destination.

Moreover, the works and services sold in the mutual trade of the EAEU countries are subject to VAT on turnover at the place of sale of such works and services.

Besides, please note that income of a citizen of one EAEU country received under an employment agreement with a company of another EAEU country shall be subject to taxation in the same manner as the income of citizens of the latter.

INTELLECTUAL PROPERTY. INFORMATION TECHNOLOGIES.



Intellectual property (IP) includes objects of copyright (works of science, literature and art, software), industrial property (inventions, utility models, industrial designs, trade names, trademarks), undisclosed information, including production secrets (know-how), and other IP objects. Kazakh laws provides that IP objects can be protected, for example, through patents, copyrights and trademarks, which allows individuals and legal entities to seek recognition, prohibit the use of their IP objects by third parties, and generate revenue from the use of their inventions or works.

Third parties can use IP objects only with the consent of the author/right holder, except for cases specified by the legislative acts of the Republic of Kazakhstan. Illegal use of IP objects entails criminal and/or administrative and/or civil liability provided by the legislation of the Republic of Kazakhstan.

TRADEMARKS



Registration of a trademark is made at the discretion of the applicant or right holder. Timely registration of a trademark allows you to protect the business from unfair competition, since in case of placing goods or services on the market under an unregistered trademark, any competing legal entity or individual may register your trademark for own name and prohibit its further use by your company.

Trademark registration gives the following benefits:

- 1) exclusive/monopoly right to use the trademark in the market for certain goods/services;
- 2) possibility of obtaining additional income by granting a license, assignment;
- 3) effective way to protect the business from other persons, which maliciously register someone else's trademark for own name in order to file claims against the original owner;
- 4) possibility to stop the illegal use of the trademark by third parties;
- 5) investment in the charter capital, and other commercial use.



The competent authority provides protection of a trademark and its owner's rights on the ground of national registration, as well as without registration according to international treaties with the Republic of Kazakhstan. The term of the national registration of a trademark is 7-8 months. Such a long term depends on the processing of documents which includes a qualification examination of the filed trademark to meet the requirements of legislation, including the search for identical and similar trademarks registered in Kazakhstan. The validity term of a trademark is 10 years with an option of subsequent extension for an indefinite period. Violation of the exclusive rights of the trademark owner entails civil, administrative and criminal liability, in accordance with the legislation of the Republic of Kazakhstan.

PATENTS

The most reliable means of protecting developed technologies from competitors is state registration of the company's exclusive rights to the invention (technology), which is provided by patenting. If a new technology or product is not patented, any person will be able to use it for own benefits freely and with impunity. In accordance with the legislation of the Republic of Kazakhstan, patents protect 3 types of results of intellectual creative activity: inventions, utility models, industrial designs.

The objects of the invention can be technical solutions in any area related to a product or method. The conditions for patent protection are novelty, inventive step and industrial applicability. The novelty is determined by the development of the level of technology at the global level, so the invention is to be compared with foreign analogues. However, the only novelty is not enough for an invention, an inventive step and industrial applicability are also required.



A patent for an invention is valid for 20 years from the filing date subject to an annual payment to maintain the patent in force. With regard to an invention related to a medicine, pesticide, which require permits obtained in the procedure specified by the laws of the Republic of Kazakhstan on permits and notifications, the validity period of the exclusive right and the patent certifying this right may be extended at the request of the patent holder, but not more than for 5 years.

The utility model objects are the same as for invention, except for therapeutic and surgical methods of treating people or animals. Besides, the inventive step is not required for the protection of such patents. It is enough if the patented device is new and industrially applicable. A utility model patent is valid for 5 years from the filing date. Its validity period can be extended at the request of the patent holder, but not more than for 3 years.

A patent for an industrial design provides legal protection for the appearance (design) of a product in the form of photographic images or computer graphics, design projects. Even the material of the fabric can be patented. An industrial design is granted legal protection if it is new, original. A patent for an industrial design is valid for 10 years from the filing date. Its validity period can be extended, each time at the request of the patent holder, for 5 years. In this case, the total term of the patent shall not exceed twenty five years from the date of filing the application.

Patent rights can be protected in the Republic of Kazakhstan and abroad, depending on the patent registration. It can be both international registration and registration in the Republic of Kazakhstan or in several countries. Depending on this, the patent provides for a different level of protection.

Disputes related to the illegal use of inventions, utility models and industrial designs generally relate to civil proceedings and are resolved in court. Violations of patent law in the Republic of Kazakhstan cause criminal liability.

Patenting of developments (technologies) gives the company the following advantages:

- protecting own business from the risks of incurring losses due to infringement of other patents;
- protection of products (technologies) from being copied by competitors;
- receiving income from developments by licensing or selling patents;
- improving the company's image in international cooperation;
- increase in the value of the company.

COPYRIGHTS



Copyright in a work of science, literature and art arises by the fact of its creation and does not require obligatory registration with a competent authority. Nevertheless, to prove the authorship of a work, the holder of copyright or exclusive right to a work may register such work in the official register at any time during the term of copyright protection. The confirmation of state registration of rights to works protected by the copyright shall be a certificate of data recording in the State Register of rights to objects protected by copyright. Copyright is valid for the life of the author and seventy years thereafter.

KNOW HOW AND COMMERCIAL INFORMATION



Know-how is particularly valuable information for its owners, directly affecting the interests of its owners and the employees of enterprises. Since know-how cannot be registered as a patent due to its confidential nature, the only way to protect the right subject is to impose a trade secret regime.

A person who lawfully possesses technical, organisational or commercial information, including trade secrets (know-how), which are unknown to third parties (undisclosed information), is entitled to have that information protected against unlawful use if the following conditions are met:

- the information has a real or potential commercial value by virtue of non-public nature;
- it is not freely accessible on any lawful grounds;
- the information owner takes measures to protect its confidentiality.

A person, who without any legal grounds received or shared undisclosed information or used it, shall compensate to the person, who lawfully possesses this information, for the damages caused by such an illegal use.

TRANSFER OF IP RIGHTS



The legislation of Kazakhstan allows rights holders to dispose of their exclusive rights in two ways: by transferring the rights to IP objects for use or by disposing of them.

IP objects may be transferred for use by entering into a licensing agreement or a complex business license (franchising) agreement.

Disposal of IP objects may be finalised in an agreement of assignment of exclusive rights to IP objects.

Assignment agreements for exclusive IP rights, licensing agreements or complex business license (franchising) agreements shall be concluded in writing. Transfer of the right to IP objects or granting the right to use IP objects under a licensing agreement or franchising agreement shall be subject to registration with an expert organisation. Failure to comply with the written form or registration requirements entails the nullity of the agreement.

PERSONAL DATA PROTECTION



In Kazakhstan, relations related to the collection, processing and protection of personal data are governed by the Law of the Republic of Kazakhstan 'On Personal Data and Protection Thereof' dated 21 May 2013. The main purpose of this law is to ensure the protection of human and civil rights and freedoms when collecting and processing personal data. In addition, the specifics of collecting, processing and protecting personal data may be regulated by other legal acts, such as the Law of the Republic of Kazakhstan 'On Informatisation', dated 24 November 2015.

The requirements of the legislation of the Republic of Kazakhstan for the collection, processing and protection of personal data shall only apply to personal data of individuals located in the territory of the Republic of Kazakhstan, regardless of their citizenship.

Based on the accessibility, personal data can be divided into public and of limited access. The key difference between them is the need to ensure their confidentiality. Publicly available personal data is not subject to confidentiality requirements, while limited access personal data requires confidentiality. Notwithstanding the above, the collection and processing of public and restricted access personal data in the Republic of Kazakhstan is, however, subject only to the consent of the personal data subject.

The Law of the Republic of Kazakhstan "On Personal Data and Protection Thereof" sets many requirements for the process of collecting, processing and protecting personal data, but they can be conditionally divided into primary and secondary. The primary requirements include:



Obligatory obtaining the consent of the personal data subject (i.e., a person, whom they relate to) or his/her legal representative for the collection and processing of the personal data, except as otherwise provided by law;



Obligatory storage of all personal data collected or to be collected in Kazakhstan in a database [9] located in the territory of the Republic of Kazakhstan;



Obligatory ensuring the personal data protection by applying a set of legal, organisational and technical measures, as well as complying with all requirements provided for by the legislation on personal data and protection thereof;



Compliance with the rights and freedoms of personal data subjects, as well as other requirements provided for by the legislation on personal data and protection thereof.

Secondary requirements specified by the law are requirements for the accumulation, change, supplement, use, distribution, depersonalisation, blocking and destruction of personal data, as well as for the cross-border transfer of personal data to the territory of foreign states. The above requirements are secondary in nature, since their implementation is impossible without compliance with the primary requirements.

[9] The database containing personal data is a set of ordered personal data (Article 1.8 of the Law 'On Personal Data and Protection Thereof'). For example, a server.

Violation of the above requirements entails administrative and criminal liability as provided by the legislation of the Republic of Kazakhstan. The maximum administrative penalty for unlawful collection and(or) processing of personal data is approximately 1,600USD. Non-compliance by the owner, operator of the personal data base or a third party (for example, a person, who accessed the database for certain purposes) with the personal data protection measures, if this resulted in the loss, unlawful collection and(or) processing of personal data, causes the fine of approximately 8,000 US dollars.



However, an administrative offence case shall not be instituted except upon the victim's application and shall be terminated upon reconciliation with the person committed the administrative offence. If more than one victim complaint file a complaint, there is a risk of several cases being initiated and several fines being imposed.

Criminal liability applies if the failure to comply with measures to protect personal data by a person obliged to take such measures causes significant harm to the rights and legitimate interests of individuals; if there is an illegal collection of information about the private life of a person that constitutes his/her personal or family secret, as well as in some other cases. Various types of punishments can be applied for criminal offenses, the most severe of which is imprisonment for up to seven years.

CURRENCY REGULATION



In Kazakhstan, both residents and non-residents engage in currency transactions in accordance with Kazakhstani currency legislation.

Outside Kazakhstan, only the following Kazakh branches (representative offices) of foreign companies are recognised as residents of Kazakhstan:

- branches of foreign financial organisations, which, in accordance with the laws of the Republic of Kazakhstan, are entitled to engage in banking and(or) insurance activities in the territory of the Republic of Kazakhstan;
- branches (representative offices) of foreign non-financial organisations that are permanent establishments of such foreign non-financial organisations in the Republic of Kazakhstan in accordance with the Code of the Republic of Kazakhstan 'On taxes and other obligatory payments to the budget' ('Tax Code'), except for branches (representative offices) of foreign non-financial organisations engaged in the activities that do not form a permanent establishment of non-resident in accordance with the Tax Code, and also branches (representative offices) of foreign non-financial organisations, which get the non-resident status under the currency legislation of the Republic of Kazakhstan through the terms of agreements concluded on behalf of the Republic of Kazakhstan with foreign organisations and which entered into force before the Currency Regulation Law came into force.



The main regulatory authorities in the area of currency transactions are the Government and the National Bank of the Republic of Kazakhstan. At the same time, the National Bank is the main controlling authority.

Residents of Kazakhstan can perform foreign currency transactions with each other only in exceptional cases established by law. All settlements between residents shall be performed in national currency. Transactions between residents and non-residents can be committed in national and foreign currencies.

Some foreign currency contracts (transactions) involving the movement of capital require obligatory registration with the National Bank of the Republic of Kazakhstan or so authorised bank, if the amount of funds provided exceeds 500,000 US dollars in equivalent.



DISPUTE RESOLUTION IN COURTS. MEDIATION. ENFORCEMENT OF JUDGEMENTS AND ARBITRAL AWARDS

In Kazakhstan, there are several ways to settle disputes. Before applying to the court, it is necessary to try to settle the dispute in a pre-trial procedure, which stage is a prerequisite for applying to the court for certain categories of cases (for instance, on claims against the carrier, claims for consumers, labour disputes, etc.). Pre-trial procedure can be implemented through negotiations, including sending a formal claim to the counterparty. If the parties fail to settle the dispute in the pre-trial procedure, they can appeal to the court, international arbitration or arbitration court, depending on the method of settlement of disputes stipulated by the parties' agreement.

The court (judge), in turn, also takes measures to reconcile the parties, assists them in resolving the dispute at all stages inviting the parties to participate in a conciliation procedure. As part of legal proceedings, the parties may conclude a settlement agreement, opt for mediation, participative procedure or other means of conciliation procedures in order to settle the dispute. The dispute can be settled by the parties at any stage of the proceedings and in the court of any instance, including after the commencement of enforcement proceedings to enforce a court decision.

In case of failure to settle the dispute in the court proceedings of first instance, the court considers the case on merits and makes a decision. The first instance courts consider and resolve cases within three months with the right to extend the consideration period up to four months. The decision of the first instance court may be appealed to the court of appeal within thirty days from the date of the court decision. The court of appeal reviews the case within sixty days from the date of receipt. The decision of the court of appeal may be further reviewed in the court of cassation instance within six months from the date of its entry into legal force.

THE EXCLUSIVE JURISDICTION OF KAZAKH COURTS COVERS:

- 1) Cases associated with the right to immovable property, which is situated in the Republic of Kazakhstan;
- 2) Cases associated with the statement of claims against carriers, which have arisen from transportation agreements, if the carriers are located in the territory of the Republic of Kazakhstan;
- 3) Divorce cases between Kazakh citizens and foreign citizens or stateless persons, if both spouses are residing in the Republic of Kazakhstan;
- 4) Cases of special action proceedings of the Civil Procedural Code of the Republic of Kazakhstan (protection of electoral rights of citizens and public associations, appealing against the decisions of state authorities, legality of the legislation, etc.);
- 5) Investment disputes are considered by the court of Nur-Sultan, if it does not contradict the international treaties ratified by the Republic of Kazakhstan. Exclusive jurisdiction refers to the cases, when the court considers a case despite the earlier parties' agreement on changing the jurisdiction.

In addition, claims for rights to land plots, buildings, premises, structures, other objects firmly connected with the land (real estate), and for the discharge of immovable property from arrest are filed at the location of the respective objects.



ENFORCEABILITY OF ARBITRAL AWARDS IN THE REPUBLIC OF KAZAKHSTAN.

Foreign arbitral awards are recognised and enforced by the courts of the Republic of Kazakhstan in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), the European Convention on International Commercial Arbitration (1961), and the civil procedural legislation of the Republic of Kazakhstan. The Republic of Kazakhstan has also ratified the Convention on the Settlement of Investment Disputes between States and Individuals or Legal Entities of Other States (ICSID) (Washington, 1965). In order to enforce a foreign arbitral award, the applicant shall apply for recognition and enforcement of the award to the competent court at the debtor's location or at the location of the debtor's property.

The application for the issue of the enforcement order shall be accompanied by a document confirming payment of the state fee amounting to 30USD, as well as the original foreign arbitral award and arbitration agreement, or duly certified copies thereof. The application for the issue of the enforcement order is considered within fifteen business days.

The court notifies the debtor about the claim received from the creditor for the enforcement of the foreign arbitral award, as well as the place and time of consideration of the claim, for which the debtor can file an objection. Thereat, the Kazakh court does not review foreign arbitral awards on merits, but is limited to verification of the absence or presence of the grounds for refusal to enforce the arbitral award specified in the 1958 New York Convention, and also in the civil procedural legislation of the Republic of Kazakhstan. The court ruling to issue an enforcement order or refuse to issue can be appealed to the court of appeal, and if denied - to the court of cassation.




In case of recognition and enforcement of a foreign arbitral award, the court shall issue a ruling thereon and an enforcement order that can be sent to the private bailiff, who has the appropriate license, to enforce the arbitral award.



FEATURES OF DISPUTES CONSIDERATION IN THE AIFC COURT.

The AIFC is a territory within the city of Nur-Sultan, where a special legal regime in the financial sector operates. The AIFC Court is independent in its activities, has a special status and is not a part of the judicial system of Republic of Kazakhstan. The regulatory law in the AIFC territory is based on the law of England and Wales and/or international financial centres. The AIFC Court operates according to its own procedural rules and the governing law. In addition, the AIFC Court may be guided by the decisions of the courts of other common law jurisdictions. The decisions of the AIFC Appeal Board are final and not subject to appeal.

Except for criminal and administrative cases, the AIFC Court considers any disputes:

-  arising between the AIFC participants, AIFC bodies and/or their foreign employees;
-  concerning any transactions committed in the AIFC and subject to the AIFC law;
-  transferred to the AIFC Court by agreement of the parties.

Thus, to apply to the AIFC Court, it is not necessary to have registration/accreditation within the AIFC, the parties can agree both on the dispute resolution in the AIFC Court and on the choice of law applicable to their dispute.

Decisions of the AIFC Court are enforceable in the Republic of Kazakhstan in the same manner and on the same conditions as decisions of the Kazakhstani courts.

In addition to the AIFC Court, a dispute can be resolved by the AIFC International Arbitration Centre in accordance with the Arbitration and Mediation Rules.

MEDIATION.

The Law of the Republic of Kazakhstan 'On Mediation' provides the parties to a dispute (conflict) with an option to resolve it by voluntary agreement with the involvement of a mediator (mediators) to reach a mutually acceptable decision. Mediation can be used in disputes arising from civil, labour, family and other legal relations with individuals and(or) legal entities. Mediation can be applied both before going to court and after the trial date. Please note that mediation does not apply when one of the parties is a government authority.

Mediation can be divided into judicial mediation in civil proceedings and professional mediation, which procedure is regulated by the Law of the Republic of Kazakhstan 'On Mediation'.

JUDICIAL MEDIATION

Judicial mediation is implemented by judges of the first, appellate, and cassation instances within court proceedings. The parties may file a petition for the dispute (conflict) settlement by way of mediation with the assistance of a judge or mediator before the judge leaves the courtroom to decide at the courts of the first, appeal, cassation instances. Upon receipt of a petition for the dispute settlement by way of mediation with the assistance of a judge on a case pending before a court of the first instance or an appeal, the court has the right to suspend the proceedings for a period of not more than 10 business days.

For mediation in the court of the first instance, the case is transferred to another judge. At the parties' request, mediation may be implemented by the judge in charge of the case. The judge (composition of the court) considering the case verifies the agreement's content for dispute settlement through mediation and makes a ruling on its approval and termination of the proceedings.

A dispute settlement agreement reached by the parties during mediation in the course of civil or administrative proceedings shall be immediately sent to the judge in charge of the case. A dispute settlement agreement shall be approved by court in the manner specified by the Civil Procedure Code of the Republic of Kazakhstan and the Administrative Procedure Code of the Republic of Kazakhstan and in case of its non-execution may be enforced via enforcement proceedings.

The advantage of settling a dispute (conflict) through mediation, in contrast to an amicable agreement, is that the parties have the right to go beyond the scope of claims and engage third parties to resolve the dispute (conflict) on the merits.

PROFESSIONAL MEDIATION

Professional mediation starts from the date the mediation agreement signed by the mediation parties. For mediation, the parties shall, by mutual agreement, select one or more mediators. A mediation agreement for the settlement of disputes arising from civil, administrative, labour, family and other legal relations with the participation of individuals and(or) legal entities pending by the court shall be the basis for the suspension of proceedings on the case.

A dispute settlement agreement reached by the parties to mediation during mediation shall be made in writing and signed by the parties. The agreement must contain information about the parties to the mediation, the subject of the dispute (conflict), the mediator (mediators), as well as the terms of the agreement agreed by the parties, the methods and terms of their performance and the consequences of failure or improper performance.

The dispute settlement agreement is subject to voluntary performance by the parties to the mediation in the manner and terms stipulated by the agreement. A dispute settlement agreement signed before considering a civil case in court is a transaction aimed at establishing, changing or terminating the civil rights and obligations of the parties. In case of failure to perform or improper performance of such an agreement, the failing mediation party shall be liable in the manner specified by the laws of the Republic of Kazakhstan.

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