



CONTINENTAL Law Firm

Kazakhstan

A business law services

Debt collection in Kazakhstan

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Introduction

CONTINENTAL Law Firm provides a full range of legal services to individuals, including individual entrepreneurs, legal entities and state.

We specialize in providing legal services in various areas of commercial activity with a focus on such areas as M&A deals, corporate and contracts law, employment law and dispute resolutions.

CONTINENTAL Law Firm pays special attention to professional ethics and confidentiality. Our lawyers have extensive experience working with both Kazakh and foreign companies with a global reputation.

With our many years of experience and professionalism, our lawyers guarantee the provision of legal services at the highest level.

Debt collection in Kazakhstan

In case of violation of the terms of performance of the obligation, the creditor has a need to recover the debt.

The creditor, in addition to the principal amount of the debt, has the right to collect a penalty (fine) from the debtor for non-fulfillment or improper fulfillment of the obligation.

Debt collection is possible by way of pre-trial settlement of the dispute and in court.

Debt collection in a pre-trial order

The creditor sends the claim to the debtor. If the debtor has not responded to the claim or has refused to respond to the claim, the creditor has the right to: (i) apply to a notary for the execution of an executive inscription; or (ii) file a lawsuit in court.

(i) Execution of the executive inscription by a notary

To recover money from the debtor, the notary makes an executive inscription on the contract.

A prerequisite for making an executive inscription by a notary is the indisputability of the creditor's right to recover the debt.

For example: (i) non-payment of wages and other payments to the employee; (ii) the claim is based on a notarized transaction etc.

The list of such cases is provided by Article 92-1 of the Law of the Republic of Kazakhstan "On Notary".

In practice, the courts refuse to accept the claim, believing that the parties did not use the right to make an executive inscription by a notary.

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(ii) Debt collection in court

Debt collection in court may be carried out by: (a) obtaining a court order; (b) obtaining a court decision in simplified (written) proceedings; and (c) in the order of claim proceedings.

(a) Obtaining a court order

A court order is a judicial act that the court issues in electronic form without summoning the parties and without judicial proceedings.

Among other things, a court order is issued for the following circumstances:

- money recovery ;
- reclaiming movable property from the debtor for undisputed claims;
- execution of agreements concluded in the order of pre-trial settlement of the dispute.

The list of circumstances for which a court order is issued stipulated by article 135 of the Civil Procedure Code.

When submitting an application for the issuance of a court order, the creditor pays a state fee in the amount of 1.5% of the recovery amount.

The court order is issued by the judge within 3 working days from the date of receipt of the application by the court. A court order has the force of an executive document.

(b) Obtaining a court decision in the order of simplified (written) proceedings

In case of simplified (written) proceedings, claims are considered, regardless of the price, based on documents establishing the debtor's obligations, confirming the debt under the contract, as well as other claims.

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The court considers the case in electronic format without summoning the parties.

The court makes a decision on the case.

Cases in the order of simplified (written) proceedings are considered by a judge within a month from the date of acceptance of the claim.

(c) Claim proceedings

When filing a claim, a state fee of 3% of the amount of the claim must be paid (for legal entities).

Preparation for the trial is carried out within 20 working days from the date of acceptance of the claim by the court.

The term of consideration by the courts of civil cases is up to 2 months from the date of completion of the preparation of the case for trial.

The court's decision shall enter into force within 1 month from the date of the final decision, unless appealed by the parties to the appellate instance.

The term of consideration of the case in the appellate instance is 2 months.

The court of first instance issues a writ of execution within 3 working days from the date of entry into force of the decision.

Currently, legal proceedings are carried out in electronic format, and court hearings are held via the video conference.

We would be glad to answer all other questions and specific inquiries you may potentially have re debt collection in Kazakhstan.

Contacts



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Eldar Babayev is a US educated corporate and M&A lawyer with many years of professional practice experience in the international law firms **Macleod Dixon and the Norton Rose Fulbright**. Since 2008 Eldar actively advises clients in **Kazakhstan, Central Asia and the Caspian region**.

In 2020 Eldar together with the other partners established the **CONTINENTAL Law Firm**.



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Yelena Maksimenko is a highly regarded corporate lawyer with more than 20 years of professional practice experience. For more than 11 years Yelena worked in the international law firms **Salans and DENTONS**.

Yelena advises on corporate, antimonopoly, employment and dispute resolution legal matters.