

AQUITAS

DISPUTE RESOLUTION

# dispute resolution

AEQUITAS Dispute Resolution practice focuses for years on complex cross-border litigations and commercial arbitration (mostly at venues outside Kazakhstan).

Another area of practice is investment arbitration. The firm's lawyers prepare disputes for international arbitration on a comprehensive basis, from representing the client in local courts to forming the international team, fund-raising and defense in investment proceedings.

The firm's lawyers act on a regular basis as party representatives and arbitrators in commercial arbitration; they are experienced in dispute resolution under the rules of LCIA, ICC, UNCITRAL, GAFTA, SCC, International Commercial Arbitration Court (ICAC) at the Chamber of Commerce and Industry of the Russian Federation, and others.

*"Aequitas is very prompt and very thorough, and has also been very flexible."*

**Chambers Asia Pacific 2022**

*"All solutions offered by Aequitas are clear, pragmatic and cost-effective."*

**Chambers Asia Pacific 2021**

AEQUITAS partners and senior advisors often act as experts before foreign courts and international commercial and investment arbitration. The practice team focuses exclusively on dispute resolution.

International rating agencies Chambers & Partners (2022, 2018, 2014) and The Legal 500 (2022-2017) recommend AEQUITAS as Kazakhstan's leading law firm in Dispute Resolution (Band/Tier 1).

# legal services

**AEQUITAS** practice team specializes and possesses dispute resolution expertise in the following areas:

- Contract
- Construction (including FIDIC contracts)
- Labor (the firm is a Ius Laboris affiliate)
- Patent and copyright
- Advisor professional liability
- Antitrust
- Banking
- Corporate
- Anti-counterfeiting
- Financial leasing
- Subsoil
- Liquidation
- Bankruptcy, rehabilitation and debt restructuring (including finance organizations).

*"Responsible, accurate, client-oriented and very pleasant to communicate with."*

Chambers Asia Pacific 2019

*"Simply superb team with expertise in litigation and arbitration, with a strong track record in construction-related disputes."*

The Legal 500 2018

*"They have a profound understanding of the problem at hand and grasp all aspects thereof."*

*They have good knowledge of procedural issues and ensure seamless and prompt communications."*

Chambers Asia Pacific 2017

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Pre-trial dispute settlement (preparation of claims, negotiations to settle the dispute in an extrajudicial procedure, and drafting of dispute settlement agreements and amicable agreements).

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Advice and assistance in the recognition and enforcement of foreign judgments and arbitral awards in the Republic of Kazakhstan.

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Client representation in all judicial instances and in all kinds of civil and administrative disputes.

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Advice on enforcement proceedings and legal support in judicial acts enforcement.

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Preparation of all types of court documents (statements of claim, amicable agreements, appeals, motions, statements of defense, rebuttals, etc.).

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Preliminary legal analysis of a disputable situation and preparation of a legal opinion regarding its resolution prospects.

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Client representation in arbitral tribunals and international commercial arbitrations.

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Client representation in the course of different inspections by governmental agencies.



# client representation in local courts

## COMMERCIAL DISPUTES

Represented a world's leading architectural firm in connection with a dispute over default on obligations to design a sports and leisure complex at Burabay resort area in Kazakhstan.

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Represented a local subsidiary of a major Indian company performing design and construction operations (as a subcontractor under the contract with Agip Kazakhstan North Caspian Operating Company N.V.) in a number of litigations over different contracts related to construction (including design and procurement) of an oil export pipeline in the framework of the Kashagan field pilot development program. Besides, AEQUITAS represented the client in a dispute over arbitration clause invalidity, which prevented dispute submission to foreign arbitration under LCIA Rules.

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Represented a local subsidiary of a major Indian company performing design and construction operations at Kashagan field in civil and criminal proceedings against a security organization in connection with a large-scale theft of property at a construction site.

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Rendered legal support to a Zurich-based holding subsidiary of the Eurasian Natural Resources Corporation in connection with a claim of one of minority shareholders under a loan agreement with complicated security mechanism. It was necessary to take a number of procedural actions in several jurisdictions for the court to issue a judgment. The firm's lawyers developed an intricate strategy to refer litigation to Kazakhstan to efficiently protect the rights of the firm's client, which would not be possible, for a substantive legal reason, in another jurisdiction.

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Represented a large distributor company in a dispute over recovery of more than USD 500,000 insurance payment for short delivery of goods by railway.

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Successfully represented a Lithuanian forwarding company in a dispute stemming from a freight forwarding contract. The claim for subrogation damages in connection with a loss of cargo was filed against AEQUITAS client (a freight forwarder registered in Lithuania) in a Kazakh court, based on the jurisdiction provision. AEQUITAS lawyers managed to convince the court that Kazakh courts had no jurisdiction over the dispute, referring to an international agreement on legal assistance and a precedent in a similar dispute resolved by a Russian court.

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Participated in court proceedings on the side of Johnson & Johnson Medical Ltd. claiming unenforceability of the arbitration clause and recovery of a large debt from a local company for the goods supplied.

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Represented Siemens AG in court to establish the legal fact of legal entity activities termination.

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Represented Estonian export credit agency in a dispute over transaction involving insurance of potential damages, which could arise due to customer's failure to pay for work under a construction contract. The customer's performance security was an immovable property provided in breach of the legislation on state property.

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Successfully represented in court a local company, member of a global construction technology and automation concern, in a dispute arising from a construction contract. The subcontractor filed a claim for payment for work performed against the customer under the contract. The dispute's complexity was due to general contractor's (AEQUITAS client) being liable under the Kazakh legislation to the subcontractor for the customer's default on obligations.

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Successfully represented in court General Electric International Inc. in a dispute against Oblast Children's Clinical Hospital regarding invalidation of a sole-source public procurement service contract.

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Successfully represented Siemens LLP before all instance courts in a dispute to recover indebtedness under a construction contract and rendered legal support in enforcement proceedings, resulting in the client's receiving the adjudged amounts in full.

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Successfully represented PetroKazakhstan Inc. in connection with recovery of debt for supplied oil products and damages from an offshore company.

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Successfully represented the local subdivision of a globally famous cosmetics manufacturer in debt recovery disputes stemming from contracts with the company distributor.

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#### CHALLENGING GOVERNMENTAL AGENCY ACTS AND RESOLUTIONS

International taxation advice to Udmurtgeologiya OJSC and successful representation of the company before the Supreme Court of the Republic of Kazakhstan in a tax dispute resulting in the cancellation of the tax authority's unreasoned notification assessing more than KZT 77 million in fines and penalty interest.

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Represented foreign companies — Greenwhale Company Ltd., Sovex CJSC and Siberian Cement Holding Company OJSC — seeking recognition of foreign judgments and awards in the Republic of Kazakhstan.

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Represented in court SCJ EurAFNE Ltd. and SC Johnson LLC in a case for collection of a large debt from a local company.

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Advice to defend Tengizchevroil LLP before the Supreme Court of the Republic of Kazakhstan in a case for collection of large damages for environmental legislation violations.

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Successfully represented in court White & Case Kazakhstan LLP (a Kazakh office of White & Case international law firm) in a tax dispute. Following a tax inspection, White & Case Kazakhstan LLP was charged with unlawful payment of the parent company's income without deducting the applicable taxes, as well as misapplication of the Convention on the Avoidance of Double Taxation between Kazakhstan and the USA. The Tax Committee's claims amounted to more than USD 1,300,000.

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Participated in litigations on the side of Bogatyr Komir LLP, Kazakhstan's largest coal mining company, against the antimonopoly agency of the Republic of Kazakhstan, the client claiming invalidation of the agency's ordinance to rectify antimonopoly legislation violations.

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Represented a major local company, Kazakhstan Kagazy JSC, following prosecutor's claims for invalidation of changes in land plots designation.

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Represented ShalkiyaZinc LLP in a dispute against a governmental agency over a claim to invalidate termination of a complex ores exploration and mining contract and advised to protect the client's interests in a litigation regarding collection of a large amount in waste disposal environmental damages.

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Successfully represented Kazakhstan's largest oil refinery, ShNOS JSC (currently, PetroKazakhstan Oil Products LLP), before the Supreme Court of the Republic of Kazakhstan in connection with a tax dispute against the Financial Police Agency of the Republic of Kazakhstan.

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Represented PetroKazakhstan Kumkol Resources JSC in court following prosecutor's claim for collection of large gas flaring damages in favor of the state.

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Represented Oil Transportation Institute OJSC in court in connection with a claim disputing tax authority's denial of income tax refund from the state budget.

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## LABOR DISPUTES

Successfully represented in courts Granite Services International INC. in connection with a labor dispute involving dismissal of an employee of a Kazakh branch of the company. The branch employee challenged the dismissal, referring to the fact that his absence at work was caused by the police detention and imposition of a restraint—recognizance not to leave.

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Represented in court AIG Kazakhstan Insurance Company JSC (Chartis Kazakhstan Insurance Company JSC) and its client (branch of Parker Drilling Company International Ltd.), the respondents in a dispute over employee's claim for health and moral damage compensation.

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Successfully represented Reckitt Benckiser in Kazakh courts of all instances in a dispute over reinstatement in job of an employee whose position (head of representative office) was displaced in the process of management structure reorganization, also claiming a large sum from the employer.

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Represented in court Tyco Electronic Raychem GmbH in a labor dispute over salary collection (ended in an amicable agreement on conditions favorable for the client).

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Successfully represented in court Nova Zink LLP, a local mining and metallurgy enterprise, in a labor dispute regarding collective agreement invalidation.

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Successfully represented in courts a UK oil servicing company in a number of labor disputes against the company's local branch employees (regarding payment for overtime work and work on days off and holidays, reinstatement in job and payment of compensation for forced absence from work, compensation for damages in connection with unlawfully depriving an employee of the possibility to work, and payment of salary difference for combining positions. In the period from 2013 to 2014, AEQUITAS lawyers participated in the settlement of 10 disputes, all of which in favor of the client employer).

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Successfully represented in courts a local company, member of an international power saving equipment manufacturing concern, in a labor dispute over the company CEO dismissal. The CEO deemed his dismissal unlawful, since it occurred during his illness and in breach of the statutory notification timeframes.

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Represented in court Medcom Kazakhstan LLP in a labor dispute over collection of salary for the time of forced absence from work (ended in an amicable agreement, as elected by the client).

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## IP RIGHT DISPUTES

Successfully represented in courts a Russian individual entrepreneur in connection with the client's trademarks (ochkarik.ru) registration being disputed on the ground that they reproduce the name of a work of art well-known in Kazakhstan. Protection of the client's interests included engagement of local and foreign intellectual property experts.

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Represented in courts of all instances Sanofi Aventis and Millennium Pharmaceuticals, Inc. holding patents for certain medicines in a number of disputes over medicines registration matters against a Kazakh LLP.

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Successfully represented in court a world's leading motor oil manufacturer in a dispute to protect trademark owner's rights, which was made possible due to preliminary collection of evidence to support infringement of the client's rights. The case ended in an amicable agreement, which met the client's interests best.

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Represented in courts a Russian individual entrepreneur in connection with trademark owner's rights protection (ochkarik.ru). A Kazakh company registered as a domain name and used in a website content, advertising and on product packaging a designation confusingly similar to the AEQUITAS client's trademarks protected in Kazakhstan (ochkarik.kz).

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## FINANCIAL DISPUTES

Represented major international banks and investment funds before local courts in a multimillion dispute related to a local bank's debt restructuring.

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Successfully represented in courts a Russian financial subdivision of Caterpillar Financial Services Corporation in disputes arising out of financial leasing agreements. Over the period of 2012–2015, AEQUITAS lawyers participated in more than 20 cases, some of those complicated by debtor rehabilitation proceedings.

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## CORPORATE DISPUTES

Represented PetroKazakhstan Oil Products LLP before the Supreme Court of the Republic of Kazakhstan in a case regarding invalidation of a joint stock company's corporate resolutions and shares buyout transaction.

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Represented in courts a minority shareholder in a dispute over coerced buyback of shares against a major Kazakh investment management company.

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Represented in courts a Russian oil servicing company to dispute an LLP management bodies' resolution claiming violations of the board of directors' competence and the general meeting of participants' convocation procedure.

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## ENFORCEMENT PROCEEDINGS

Successfully represented Rosneft, a Russian oil and gas company, in connection with the recognition and enforcement of a foreign judgment for debt collection in Kazakhstan.

Legal support services in enforcement proceedings to recover debts in favor of Kazakhstan Kagazy JSC based on a court decision adjudging material damages compensation.

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Enforcement of a foreign arbitral award rendered in favor of a major grain trader under GAFTA Rules.

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Legal support services in connection with enforcement proceedings to recover debts in favor of Siemens LLP.

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# client representation in foreign courts and courts of arbitration

Represented foreign companies — Bel Shostka Service PrJSC (2010), Vermeer East Ltd (2009) and Rittal CJSC (2013) — in debt collection arbitration proceedings.

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Expert advice and participation on the side of the Republic of Kazakhstan in the Biedermann vs. Republic of Kazakhstan investment dispute heard by the Arbitration Institute of the Stockholm Chamber of Commerce.

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Legal assistance to a specialist merchant of agricultural commodities, trading specifically in sugar, molasses and coffee in Kazakhstan, in connection with an ongoing arbitration under the LCIA rules in London against one of Kazakhstan's largest grain producers. It has become a popular tactic in Kazakhstan to howsoever avoid the receipt of arbitration documents, including notices of arbitration, to later claim in Kazakh courts absence of proper notification as a ground to reject recognition and enforcement of foreign arbitral awards under the 1958 New York Convention.

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Advised and participated as local law experts in a case upon claim by a group of individual participants in a Kazakh LLP against a group of large US oil companies tried by the court of general jurisdiction of the State of Texas.

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Represented Can Agri, a major Europe-based animal feedstuff manufacturer, in arbitration in connection with debt recovery and further recognition of award by a Kazakh court. In view of the fact that the permanent arbitral institution specified in the arbitration agreement was liquidated as of the date of claim, the firm's lawyers applied for appointment of an authority to consider the dispute in accordance with the procedure stipulated by the European Convention on International Commercial Arbitration. The appointed arbitration considered the case and satisfied the client's claims in full.

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Represented Bazis-A, Kazakhstan's largest construction corporation, in The Hague Permanent Court of Arbitration in a dispute for arbitration clause invalidation against Michael Wilson & Partners Limited, an international law firm.

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Participated in arbitration on the side of Zalvand Trading, Iran gas trading company, before the Arbitration Commission (then having the status of international arbitration) of the Union of Chambers of Industry and Commerce of the Republic of Kazakhstan in a case for debt collection from a local company.

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Participated as a local law expert in a case tried by a Texas court, USA, in connection with a dispute over prenuptial contract, including Kazakh law applicability to various inheritance and property issues and choice of applicable law.

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Participated as local investment law experts in the famous investment arbitration Ruby Roz Agricol and Kaseem Omar vs. Kazakhstan, UNCITRAL. Among other things, the project was complicated, because it involved application and historical interpretation of legislation previously in effect. Dr. Olga Chentsova's contribution was particularly interesting to the client, since she is one of a few authors of the RK Law on Foreign Investments, which was to be interpreted.

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# ratings



Managing partner **Olga Chentsova** <sup>Eminent Practitioners</sup> is well regarded for her expertise in international arbitration and domestic litigation matters.

**Ardak Idayatova** <sup>Band 4</sup> is a partner in Almaty who enters the rankings on the back of market recognition. She advises major international clients on a range of disputes, including tax, construction and bankruptcy.

**Violetta Kim** <sup>Senior Statespeople</sup> is a long-established lawyer who is noted for her expertise in commercial disputes and arbitration matters. She is also a former Supreme Court judge who is well regarded by market commentators.



**What the team is known for**  
AEQUITAS Law Firm <sup>Band 1</sup> is a highly reputed domestic law firm in Kazakhstan, which represents clients in a broad range of commercial disputes, including contractual and debt recovery cases, as well as domestic enforcement work. The legal practice is also frequently engaged to provide Kazakh law expertise in international arbitrations seated overseas. Aequitas often acts for international and domestic clients from the manufacturing, construction and pharmaceutical sectors.

**Strengths.** Interviewees highlight Aequitas Law Firm's "practical commentary which has business application."  
*"Aequitas is very prompt and very thorough, and has also been very flexible,"* reports another source.

**Work highlights.** Aequitas Law Firm represented Unilever Kazakhstan in a number of disputes with its former distributors.



AEQUITAS remains a top-tier choice for local counsel.

**Client feedback.** "AEQUITAS is very responsive, flexible and thoughtful with regard to the client's business concerns."

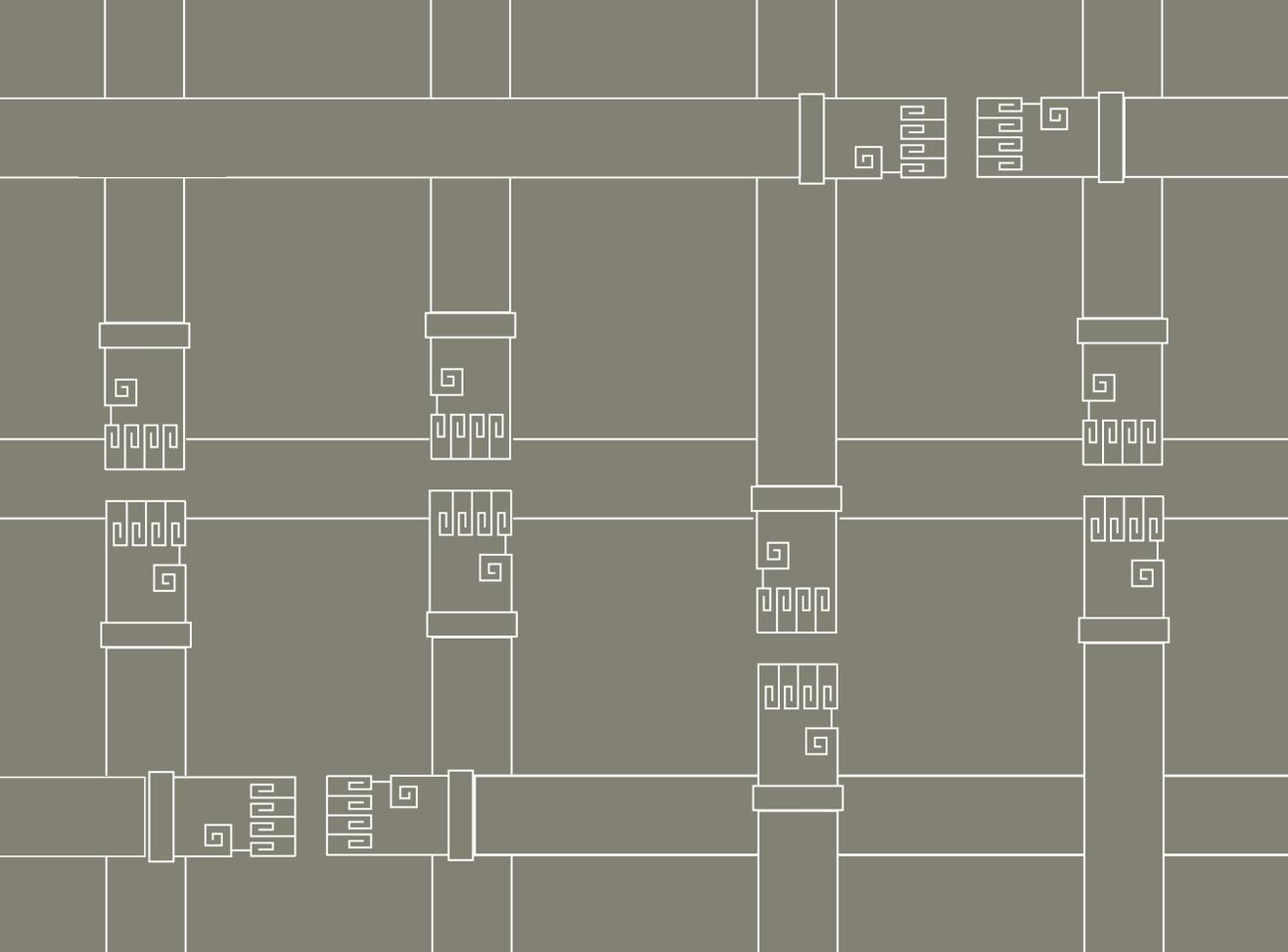


AEQUITAS is recognized as a leading domestic law firm. Managing Partner **Olga Chentsova** was named *Highly regarded Lawyer* and included into the *IFLR1000 Women Leaders elite ranking*.



AEQUITAS <sup>Tier 1</sup> is particularly well versed in major cross-border disputes for which the firm regularly joins forces with foreign firms through law network TerraLex. Established in 1993, the firm demonstrates particular strength in commercial arbitration and investment arbitration, with construction, employment and insurance disputes accounting for a significant portion of the recent caseload, including matters from the oil and gas sector.

**Ardak Idayatova** <sup>Rising stars</sup> and managing partner **Olga Chentsova** <sup>Hall of Fame</sup> direct the practice, which includes former justice of the Supreme Court of the Republic of Kazakhstan in **Violetta Kim** <sup>Recommended</sup>  
*"Very knowledgeable and insightful."*  
*"Willingness to fully realise their abilities for solving problems; striving to obtain the best possible result; achievement of the set goals, despite the obstacles."*  
*"Ardak Idayatova has great potential."*



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