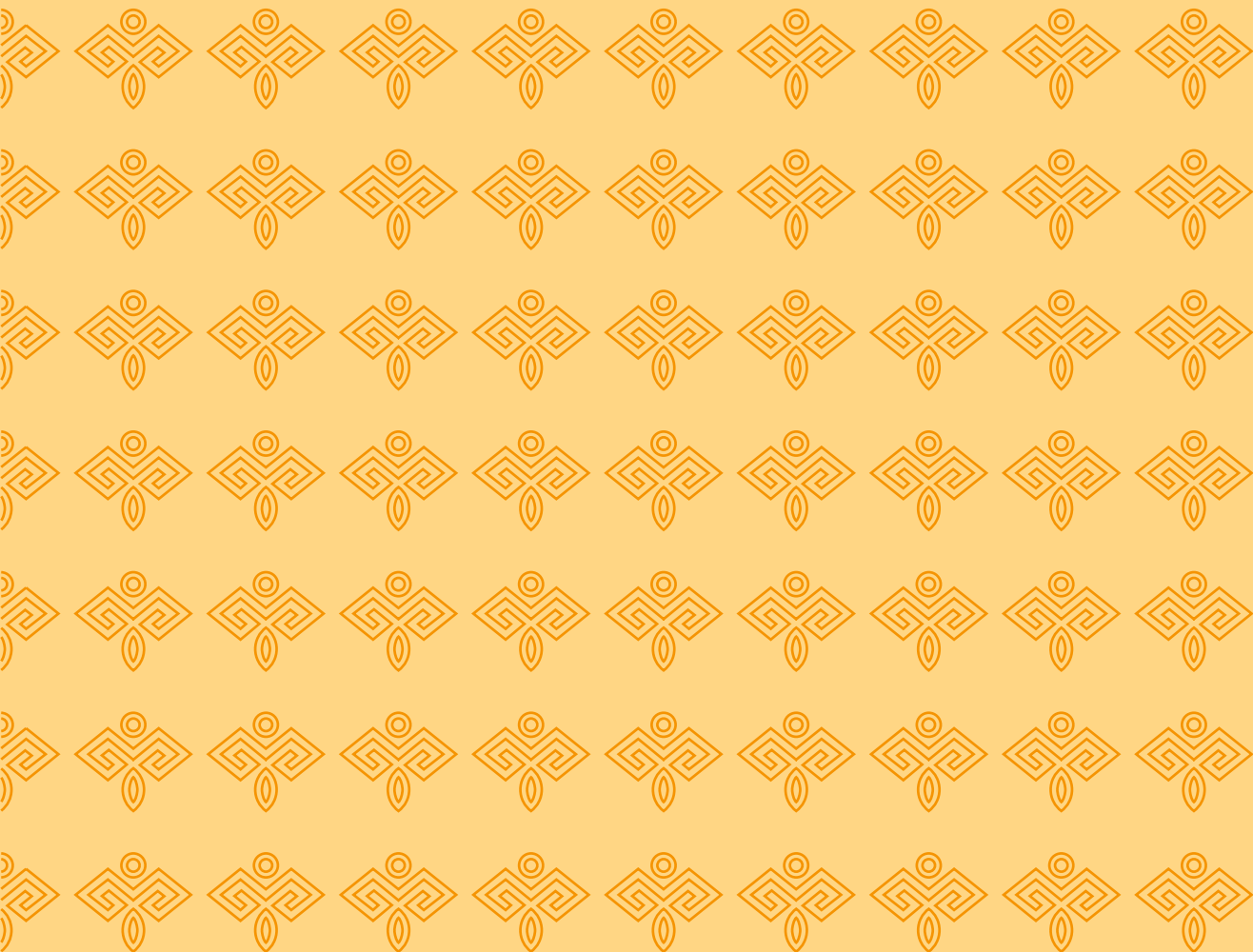


# AQUITAS

LABOR & EMPLOYMENT



# labor & employment

**AEQUITAS's** labor law practice is one of the best in Kazakhstan. In 2015, **AEQUITAS** was affiliated by Ius Laboris, a global Alliance of leading employment, labor and pension law firms.

The firm's lawyers advise companies on their day-to-day matters and help resolve most complex non-standard issues not regulated by the Kazakh labor legislation.

**AEQUITAS** provides labor law services to clients in different sectors of economy: energy and mining, transportation and pharmaceuticals, retail and production. The firm's lawyers are perfectly knowledgeable about the legislative specifics of relations with different categories of employees in particular industries. On most intricate issues involving foreign labor relations **AEQUITAS** advises Chevron Munaigas Inc., Hewlett-Packard, General Electric, Mars Overseas Holdings, Inc., and others.

**AEQUITAS** possesses sound experience in labor disputes resolution.

In 2015, the firm's lawyers submitted a large package of substantiated proposals to amend the labor legislation for consideration to the governmental working group drafting the Labor Code of the Republic of Kazakhstan.

**AEQUITAS** lawyers regularly publish analytical articles in local and foreign periodicals. **AEQUITAS** has been a World Bank's respondent to prepare labor regulation overviews for the Doing Business annual report since 2005. Over the past several years, **AEQUITAS** lawyers have been authoring Kazakhstan labor law newsletters for ABA International Employment Law Committee.

Yulia Chumachenko, **AEQUITAS** partner supervising the labor law practice is among Kazakhstan's best lawyers specializing in labor law according to the Who's Who Legal and Legal 500 international rating publications.

# legal services

## DRAFTING OF LABOR DOCUMENTATION

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Drafting of employment agreements to ensure the maximum protection of employer when hiring different categories of employees and drafting of job descriptions.

Adaptation of global corporate employment agreements, employer's acts and employment policies to meet the requirements of local legislation and the law-application practice.

Drafting of HR documentation and employer's acts intended to mitigate the potential risks of administrative liability imposable on companies and corporate officers.

Development of long-term incentive programs; introduction of international incentive systems subject to local legislation requirements; assessment of legal and tax aspects of program introduction; development of a full package of necessary documentation; assistance in the internal harmonization of staff incentive programs.

Drafting of agreements on establishing grievance committee.

## LABOR AUDIT; PREPARATION TO LABOR INSPECTIONS

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All-round HR and migration due diligence of companies and development of recommendations to eliminate risks.

Analysis of legal and tax risks pertinent to personnel costs optimization.

Assistance in the preparation for, and how to behave during, inspections.

## LABOR DISPUTE RESOLUTION

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Representation of interests in labor disputes resolution, including in courts.

Representation of interests in the course of administrative proceedings during labor and migration authority inspections.

## LABOR LAW ADVICE

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Preparation of legal opinions and drafting of documents on matters involving disciplinary liability of employees.

Advice regarding formalization and termination of labor relations and quest for and development of optimal solutions the least risky for employers.

Advice on occupational safety and labor protection issues, including settlement of on-the-job accidents; advice regarding work place attestation according to labor conditions; drafting of relevant employer's acts.

Advice on personal data protection matters, drafting of consents to personal data processing and their cross-border transfer; check of corporate documentation as to its compliance with personal data protection legislation.

Advice regarding Kazakhstani citizens' employment abroad, including under secondment to foreign companies.

Advice regarding workplace quotas for disabled persons, young specialists, foreign labor and other categories of employees.

Advice on foreign citizens labor activities in Kazakhstan, including tax aspects; document issuance procedures for foreign labor engagement.

Development and legal support of the procedures for staff reduction and mass employee displacement.

Legal support in changing labor conditions and work time regime, including in connection with changes in the company's process or organizational conditions.



# most representative projects

Comprehensive legal support in the area of labor relations to a major company in the top ten on the global pharmaceutical market, in fully attending to the complex process of the local subsidiary management change; adaptation of global standard employment agreements and different employer's acts adopted by the company to meet the requirements of local legislation; advice on the issues of various benefits, bonus plans, employee repatriation and housing, employment of disabled persons, etc.

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Advice to Sanofi, Schlumberger, General Electric, Johnson & Johnson, Ivanyan & Partners, Itron Inc., ERM Eurasia, POLPHARMA, Visa, Pusch Wahlig Legal, ACCA, Eurasian Group, LOYENS & LOEFF LUXEMBOURG S.A.R.L., Shalkiya Management LLP and other companies on the issues of labor relations regulation in Kazakhstan, including employee representatives appointment and competence; origination and termination of labor relations with company executive body head and bringing him/her to material liability pursuant to the audit and inventory inspection results subject to tax aspects; additional payments and other benefits to employees residing in environmental disaster areas and serving in Afghanistan; hire of foreign employees; employment of disabled persons; applicability of regional agreements among trade unions, local executive authority and National Chamber of Entrepreneurs; employee training in occupational safety, labor protection and other subjects; disciplinary liability of employees; company representation before employment authorities; development of a package of mandatory documents for personal data protection compliance and advice concerning localization of databases.

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Advising Granite Services International on a number of labor law matters, including cumulative work time accounting, rotation work and participation of employee representatives in labor relations; adaptation of the current local regulations, including norms of the 2015 RK Labor Code, to the company's business specifics and its labor documentation, and company representation in court in labor disputes with employees.

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Full labor due diligence of the Kazakhstan subdivision of ExxonMobil. Preparation of a detailed Report on due diligence containing recommendations on labor issues, including those related to foreign labor engagement, "provision of personnel," various labor law issues, HR documentation system, training of employees and preparation of documentation on labor safety and protection. Successful preparation and representation of the company's interests in the course of inspection by a state labor inspector.

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Holding of a workshop on intricate issues of legal regulation of labor and associated relations in connection with the adoption of the 2015 RK Labor Code, for executive officers, legal and HR departments of Tengizchevroil LLP, including overview of the local labor legislation and law-application practice (including judicial practice) on topical issues, analysis of disputable situations simulated by the client, consideration of significant problems and risks, as well as the methods to solve problems associated with the application of the updated Kazakh labor legislation.

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Advice to Exxon Mobil group of companies on a wide range of labor law issues, including entering into and termination of employment agreements, work time, labor relations with foreign citizens, labor regulation for employees with non-standard working day, work permits, labor legislation compliance liability, collective agreements and pension legislation. Company representation in relations with authorized agencies and in disputable labor relations in connection with projects in Kazakhstan (since 1993 to present).

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Advice to a number of companies located in the territory of Almaty on social partnership issues at a regional level, including via signing of the memorandum of understanding among Akimat, an employer and union of trade unions concerning cooperation intended to stabilize production processes and ensure labor rights and employment of employees.

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Regular advice to a Kazakh LLP on a group of companies privately holding a FMCG logistics and distribution business on a range of labor issues; structuring relationships with trade union bodies and entrepreneurship and executive authorities in the course of doing business, including by signing a memorandum of understanding among the Akim's Office, the employer and the trade union association concerning cooperation to stabilize manufacturing processes and ensure employees' labor rights and employment.

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Advice to Reckitt Benckiser regarding complex matters and issues ambiguously regulated by local legislation relating to labor relations with the head of the company executive body under the condition of sideline job; labor relations with women, including specifics of regulation in connection with maternity and childcare leaves, mandatory payments and hire of a temporary employee.

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Advising ExxonMobil and Chevron in connection with complicated foreign labor engagement matters; preparation of different instructions and instruction memos regarding foreign citizens' stay in Kazakhstan; preparation of overview addressing current legal issues of foreign labor engagement due to related local legislation imperfections in order to discuss the possibility of required legislative amendments at the level of Foreign Investors' Council under the President of the Republic of Kazakhstan.

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Holding of a seminar for the heads and HR departments of Chevron production subdivisions dedicated to complex issues associated with employee substitution and transfer and resolution of various accompanying issues, which included development of template customized documents for different labor situations, review of major problems and risks and suggesting ways to resolve the issues stemming from local labor legislation application; adaptation of current local regulations, including norms of the 2015 KA Labor Code, to the company's business specifics and its labor documentation.

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Advice to Caterpillar Overseas S.A. on labor law issues, including company's and its personnel's participation on a parity basis in the corporate pension plan implemented in the CIS together with a non-governmental pension fund, development of an individual package of documents for the protection of the company employees' personal data, drafting of custom-tailored employment agreements, and advising the company dealer on its disputable legal relationships in connection with its General Manager's employment agreement termination.

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Integrated advice on different labor issues and drafting of labor documents for Emirates Airlines.

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Advice to Tolmar Corp, Chevron, Reckitt Benckiser, Danfoss, Foodpanda, Estee Lauder, Schlumberger, Lansky, Ganzger & Partner Rechtsanwälte GmbH, Amadeus, General Electric, Intertek and other major companies regarding management change procedure at local subsidiaries and structural subdivisions complicated by a conflict with CEO whose powers are being terminated; all-round legal support in the management change process; advising on visa support issues, advice on possible options to terminate the labor relations, and employer representation in court in cases where the former CEO disputed the justifiability of labor relations termination.

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Advice to Lansky, Ganzger & Partner Rechtsanwälte GmbH and International University of Central Asia on migration and foreign labor engagement issues.

Advice to the representative office of Boehringer Ingelheim Pharma GmbH on the issues of secondment and corporate transfer of local employees to other company's subdivisions abroad; development of HR documents register and preparation of the required HR documentation; advice on personal data protection issues and drafting of internal documents relating to personal data circulation.

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Advice to Schlumberger regarding salary indexation and social benefits to persons residing (working) in radiation hazard zones; engagement of foreign employees and possibility of their business travel, issuance of business visas, and visa-free entry to Kazakhstan for the company's foreign employees.

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Ongoing advice to Mars Overseas Holdings, Inc., Berlin-Chemie AG, Radiometer LLC and their Kazakh subsidiaries and structural subdivisions on multiple labor law matters: hire for job and labor relations termination; transfer of employees; payment of salaries, compensations, environmental allowances and other additional payments; average salary calculations, drafting of employment agreements, including those for executive personnel; drafting of a register of HR documents and necessary HR documentation; advice regarding adoption of different employer's acts and adjustment of global policies to local statutory requirements; advice and representation of companies in mutual relations with authorized agencies and disputable labor law relations in connection with projects in Kazakhstan.

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Representation of the Kazakhstan branch of General Electric in the course of prosecutor's investigation related to foreign labor engagement issues, including provision of advice when preparing to and in the course of the investigation.

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Advice to Hewlett-Packard on a wide range of labor law issues, including: fulfillment of state labor inspector's ordinances; grounds for suspension of employees, including executive personnel, from work and procedure for introducing downtime regime; preparation of employment agreements; drafting of employee bonus regulations and other internal corporate documents, including job descriptions, staff schedules, orders, regulations, etc.

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Advice to the Russian subdivision of Celgene, a large pharmaceutical company, relating to complicated issues of labor relations formalization with employees conducting medications marketing and advertising events in Kazakhstan, including choice of the optimum solution in a situation where the company has no permanent establishment in Kazakhstan and the employees performing activities in Kazakhstan are in labor relations with a Russian legal entity.

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Representation of Mars Kazakhstan LLP in the course of inspection by a state labor inspector with respect to foreign labor engagement by a Kazakhstan company abroad. Successful protection of the company's position in a disputable situation

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Advice to Ivanyan & Partners, a Russian law firm, on complex labor law issues in connection with a project in Kazakhstan implemented by Russia's major coal transportation company that required optimum formalization of the hire of employees, including those arriving to Kazakhstan from the Russian Federation, from the standpoint of the Kazakh labor and tax law.

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Advice to Eurasian Bank, representative office of Berlin-Chemie AG in Kazakhstan and other companies on pre-trial labor dispute resolution in accordance with the procedure provided for by the 2015 RK Labor Code, including drafting of a package of documents for the appointment of employees' elective representatives, establishment and functioning of a grievance committee (agreement on establishment of the committee and work procedure thereof, minutes, powers of attorney, registration forms, orders, applications register, etc.).

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Advice to ECODIT, a US-based company, on the issues of personnel employment in Kazakhstan, including head of representative office, in the framework of a project financed by USAID/Central Asia, which involved consultations regarding representative functions implementation; preparation of agreement to terminate the consulting services contract and arguments to substantiate the lawfulness of the company actions; drafting of employment agreement for certain work performance with special salary accrual and payment conditions compliant with USAID standards; company representation in negotiations with hired employees; advice regarding salary indexation subject to differences in KZT exchange rate to foreign currencies, calculation of salary under part-time and hourly-based employment, and other questionable provisions of labor law.

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Advice to Moët Hennessy C.E.E and a number of other foreign companies regarding execution of personnel provision contracts in the context of permissibility to introduce a legal institute of secondment actively used in some countries into the legal relations being formalized under the Kazakh legislation; assessment of legal and tax risks stemming from such contracts and development of recommendations to mitigate same.

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Advice to Ius Laboris, an alliance of the world's leading law firms providing labor law advice and services, in the person of its Spanish representative firm, Sagardoy Abogados, regarding the introduction of Extraordinary Profit Sharing Plan in a Kazakh subdivision of a major textile manufacturer, including adaptation of the said employee incentive plan to the Kazakh legislation, and assessment of relevant risks.

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Integrated legal support to the Kazakhstan branch of Intertek, a large UK-based company specializing in independent testing and certification, in the process of mass staff reduction, including successful company representation in all court instances to resolve lay-off related labor disputes; legal assistance in the company personnel transfer from the branch to a local subsidiary and drafting of employment agreements for different categories of employees, including head of executive body.

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# membership



The Law Society



The British-Kazakh Society



ASSOCIATION  
OF INTERNATIONAL  
PETROLEUM NEGOTIATORS



Global HR Lawyers  
lus Laboris



TERRALEX



CIS LCN



Евразийская  
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АССОЦИАЦИЯ  
www.eurasiancompetition.org

# ratings

*"AEQUITAS has assisted us in multiple matters over the past few years in relation to Kazakhstan law, and I have been delighted by their service in all respects".*

**The Legal 500 2023**

*"AEQUITAS worked with great efficiency and well under the proposed budget. The team members are attentive to detail and provide complex legal support".*

**Chambers Asia Pacific 2023**



**Yuliya Chumachenko** Notable practitioner is  
*"great communicator and a trusted partner."*

*"Good client relationship management, deep knowledge of specific laws and regulations."*



*"Yulia Chumachenko proved to be extremely responsible performer, she was always in touch and explained all the ways to solve our issue as clearly as possible".*



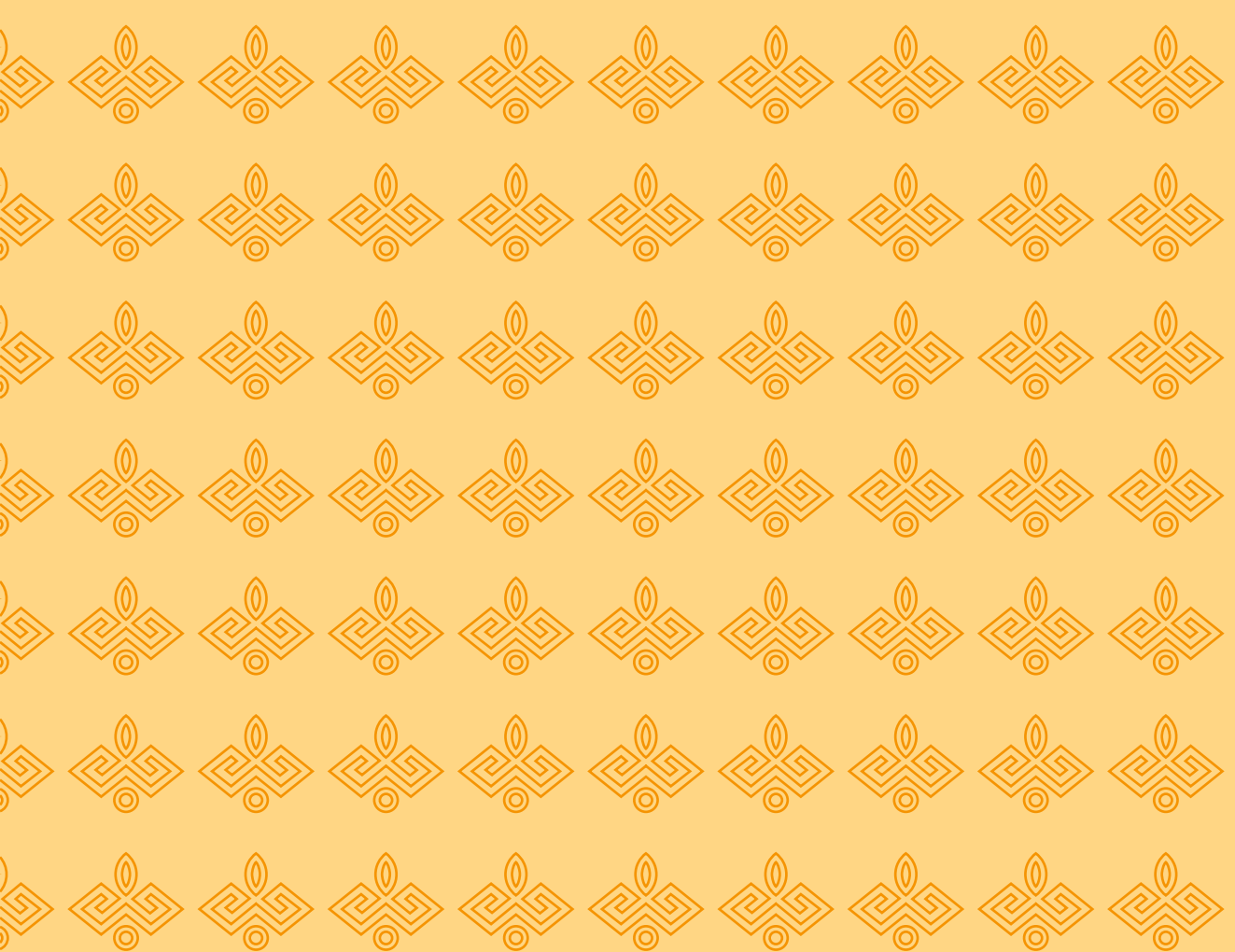
lus Laboris Affiliate Kazakhstan

**Aequitas**

*"The firm has a pro-client approach, high-quality services, quick response on offer and conflict of interest. The Quality Committee would like to thank you for participation in lus Laboris projects."*



AEQUITAS Partner  
**Yuliya Chumachenko**  
is recommended in  
Labour, Employment  
& Benefits.



AQUITAS

LABOR & EMPLOYMENT