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Kazakhstan- Investment Treaty Arbitration

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Kazakhstan- Investment Treaty Arbitration

1. What is the current legal landscape for Investment Treaty Arbitration in your jurisdiction?

Kazakhstan is party to a broad network of bilateral and multilateral investment treaties and has long accepted investor-state arbitration as a principal dispute resolution mechanism. The country is a signatory to both the ICSID Convention and the 1958 New York Convention, as well as the Energy Charter Treaty, and under the 1995 Constitution, its ratified treaties prevail over domestic legislation.

Kazakhstan has been involved in a number of investor – state disputes over the past two decades, particularly in the oil and gas, mining, telecommunications, and infrastructure sectors. Several cases illustrate recurring themes in disputes involving the state.

The *Stati v. Kazakhstan* proceedings demonstrated both the scale of potential claims and the complexity of post-award enforcement proceedings. In *Caratube v. Kazakhstan*, jurisdictional findings highlighted the importance of corporate structuring and treaty eligibility. Earlier disputes such as *Rumeli Telekom v. Kazakhstan* and *ALG v. Kazakhstan* arose in the context of privatisation and regulatory transition.

Overall, it would be a fair observation to say that disputes involving Kazakhstan tend to arise not from formal expropriation but from regulatory intervention, contractual disagreements in strategic sectors or policy changes affecting long-term projects. While the legal framework remains supportive of arbitration, disputes in practice are typically fact-driven and actively defended.

2. What three essential pieces of advice would you give to clients involved in Investment Treaty Arbitration matters?

First, treaty protection should be considered at the structuring stage. Kazakhstan-related disputes demonstrate that jurisdictional issues – including corporate nationality, ownership structure, and the timing of restructuring – can determine whether arbitration is available at all.

Second, investors should anticipate that disputes may extend into enforcement proceedings in multiple jurisdictions. Kazakhstan has in past cases pursued extensive post-award strategies, including jurisdictional and public policy challenges. Claim strategy should therefore take enforcement considerations into account from an early stage.

Third, the regulatory record is often decisive. Many disputes involving Kazakhstan turn on detailed factual questions regarding communications with state authorities, compliance with licence obligations, and the formation of legitimate expectations. Maintaining a clear documentary record throughout the life of the investment is therefore critical.

3. What are the greatest threats and opportunities in Investment Treaty Arbitration in the next 12 months?

A development to monitor is the expected constitutional reform in Kazakhstan. One proposal under

discussion would provide that Kazakhstan complies with international treaties only insofar as they are consistent with the Constitution. If adopted, this may influence how treaty protections are framed in domestic legal arguments going forward.

From a disputes perspective, exposure remains concentrated in strategic sectors, particularly oil and gas, mining, and major infrastructure projects. Historically, Kazakhstan's highest-value arbitration risks have arisen from long-term resource projects involving production-sharing agreements, stabilisation clauses, or cost-recovery disputes.

Disputes in the jurisdiction often follow extended periods of regulatory negotiation or compliance disagreement rather than arising abruptly. Investors who recognise these dynamics early and begin documenting their position at an early stage are generally better prepared if arbitration becomes necessary.

4. How do you ensure high client satisfaction levels are maintained by your practice?

We focus on clear advice, responsiveness, and alignment with the client's commercial objectives. Investment disputes involving Kazakhstan frequently combine legal, regulatory, and commercial considerations, so clients benefit from advice that reflects both procedural strategy and the broader context in which disputes arise.

Our approach is informed by experience on both sides of investor–state disputes, allowing us to anticipate how claims are likely to be assessed by tribunals as well as by state institutions. We prioritise early case assessment, realistic evaluation of risks and timelines, and consistent communication with clients and international counsel throughout proceedings.

This helps ensure that legal strategy remains aligned with the client's broader business objectives at every stage of the dispute.

5. What technological advancements are reshaping Investment Treaty Arbitration and how can clients benefit from them?

It is becoming increasingly clear that technology is re-shaping the management of legal profession – and this extends to investment arbitration proceedings.

Since COVID, virtual and hybrid hearings have become standard practice even in local litigation in Kazakhstan. AI-assisted document review and evidence-management platforms are clearly becoming invaluable in disputes.

Conclusion:

As Kazakhstan continues to balance its investment ambitions with evolving regulatory priorities, investment treaty arbitration is likely to remain the principal forum in which that balance is tested in practice.

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