

22 December 2014

To our clients and friends

INFORMATION MEMORANDUM concerning amendments to the civil procedure legislation of the Republic of Kazakhstan

29 November 2014 witnessed enactment of the Law No. 254-V of the Republic of Kazakhstan (hereinafter, the RK) of 17 November 2014 "On Introduction of Amendments into Certain RK Legislative Acts on the Issues of Further Simplification of the Administration of Justice and Reduction of Bureaucratic Procedures" (hereinafter, the Law).

The Law mostly amends the Civil Procedure Code and the Criminal Procedure Code, and some other RK legislative acts.

This Information memorandum offers a brief analysis of the key amendments introduced by the Law into the RK Civil Procedure Code.

Key Novelties

1. *Representatives of the Parties*

The Law reflects the results of lengthy and extensive discussions of followers and opponents of a proposal to limit the range of persons who may be the representatives in court. Up to date, the range of persons who may be the representatives in court has not been amended. However, the Law sets a requirement that the representatives allowed by court to take part upon request of the persons involved in litigation must have a higher legal education.

2. *Simplified Civil Court Proceedings*

The Law introduces the institute of simplified (summary) civil proceedings. The following cases are subject to consideration according to the simplified procedure of civil legal proceedings:

- Cases over claims for money collection, if the amount of claim does not exceed 500 monthly calculation indices (MCI) for legal entities or 100 MCI for individual entrepreneurs or individuals; and
- Regardless of the claim amount, cases over claims that are based on documents submitted by the claimant and establishing the defendant's pecuniary liabilities and/or on documents confirming indebtedness under an agreement.

The period for reviewing cases in a simplified procedure is one month and cannot be prolonged.

The court reviews the case without summoning the parties, giving them the time to submit the statement of defense and the documents with explanations on the merits of the stated claims



and defenses. Upon expiration of the given time, the court reviews the documents submitted by the parties and passes a judgment.

Judicial acts passed over cases reviewed in simplified proceedings may be appealed only in the appellate and cassation instances and cannot be reconsidered in a supervisory procedure.

3. *Writ Proceedings*

The Law expands the list of claims to be reviewed in the context of writ proceedings. Such claims include, *inter alia*, those for the awarded amounts indexation and claims for recovery of debts for the actually consumed services on the basis of public contracts (electric power, gas, heat and water supply, telephone and Internet services, cable television, and solid domestic waste removal).

4. *Video Tools in Civil Court Proceedings*

The Law provides for keeping audio or video protocols of open court sessions, as well as for the right of persons involved in a case to familiarize themselves with the audio or video records of the court sessions and to file comments on them.

Explanations of persons involved in a case can be obtained in a real time mode via video communication with the court at those persons' place of location.

5. *Electronic Documents in Civil Court Proceedings*

The Law provides for the possibility to file in court any statements, motions, statements of defense, appeals or cassation petitions in the form of electronic documents, as well as the possibility to issue the court's judgments and writs of execution in the form of an electronic document.

6. *State Duty*

The Law establishes an obligation to pay state duty charged on appellate and cassation petitions and on motions to dispute judicial acts in a supervisory procedure.

The amount of the duty is (per each petition or motion):

- In non-property disputes – 50% of the amount of state duty charged when filing a non-property related statement of claim; and
- In property disputes – 50% of the amount of state duty calculated based on the amount disputed by the claimant.

7. *Court Notifications*

The Law introduces a definition of the "due notification of the parties" which means a notice received by one of the adult members of the family residing at the specified address and sent by registered letter with delivery confirmation, or by a telephone message or telegram, as well as a report confirming delivery of a text message to the cellular network subscriber's number or e-mail address, or using other means of communication ensuring the recording of the notice or call, unless the party proves that the notice was not delivered thereto or was delivered later.

Should you have questions regarding the Law application, we would be happy to give pertinent advice.

Best regards,
ÆQUITAS Law Firm