



# Artyushenko & Partners

BOUTIQUE LAW FIRM

## About

### ARTYUSHENKO & PARTNERS IS THE ONLY REAL-ESTATE BOUTIQUE LAW FIRM IN KAZAKHSTAN.

Company was founded in 2005, practicing the law of the Republic of Kazakhstan and has offices in Almaty and Astana cities, representative office in Moscow.

Company has a niche specialization and provides law services in construction and real estate management, deals support, legal Due diligence, legal memo development, litigation in courts and arbitration. We believe it is necessary to know our client's business from inside, to understand client's goals and to provide expected and measurable result.

We have experience working in Kazakhstan with Top 100 International Contractors, JLL, World Bank Group, Thomson Reuters and others.

Our firm professional responsibility is covered by insurance policy.

Company is listed by Chambers and Partners Asia Pacific 2017, Legal 500 EMEA 2017 in Real Estate and Construction practice. Asialaw profiles 2017 recommends us as a leading law firm in Real Estate and Construction in Kazakhstan.

We hold seminars on EPC and FIDIC contracts in Kazakhstan and other, on contractual relationships, construction issues, litigation, arbitration and others.

## Contacts

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# Andrey Artyushenko

## Managing Partner

He has experience as a professional lawyer for over 17 years in construction (EPC, FIDIC) deals, due diligence, contract law, corporate law. Recognized Practitioner by Chambers and Partners Asia-Pacific Guide 2016, 2017 in Corporate & Finance, identified as a market leading lawyer in Kazakhstan by Asialaw profiles 2016, 2017 in Construction and Real Estate, rated by Legal 500 EMEA 2016, 2017 in Real estate and construction.

Andrey Artyushenko graduated from the Kazakh State Law Academy with specialization in Law in 2001, successfully completed education course “FIDIC: implementation practice” (Moscow automobile and road construction state technical university).

He is an arbitrator of Arbitration center of the National Chamber of entrepreneurs Atameken and the member of the Committee on

development of contractual relationships of Association of legal entities “National Association of construction in the Republic of Kazakhstan”.

## Projects:

- Esentai Park
- Ritz-Carlton
- Medeo & Shymbulak
- Abu Dhabi Plaza
- Alaygyr
- Marine Port Aktau
- Western Europe Western China road



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## Gulnar Ospanova

### The Partner

Partner of law firm “Artyushenko & Partners” since 2011. She is a judge in a honorable retirement. She has working experience as a lawyer of over 35 years. The length of service includes service in judicial bodies (1982-1986), court (1986-2007), and the law firm (2007-2011).


When working as a judge, she specialized in civil cases: commercial disputes on major investment projects with the participation of foreign investors in the banking sector, energy industries, machinery building sector, and non-ferrous metals industry in issues concerning the application of antitrust law, law on land, customs, tax, environmental laws, and laws on bankruptcy and privatization.

She is a certified arbitrator of the Kazakhstan International Arbitration, the International Court of Arbitration, Arbitration center of the National Chamber of entrepreneurs Atameken, the International Commercial Arbitration Court (ICAC) of the Eurasian Mediation Center.

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# Projects:

- Legal support in the **unique project of construction of co-working office in Almaty** with total area more than 10 000 square meters, in favor of several local leaders in commercial real estate (joint venture, rent, networking and separation of founder's partnership relationships of risk-related project);
- Providing expert commentary while settlement of dispute in **construction of pilot uranium production by leaching procedure** on the part of Inkai field;
- **Representation in court** in Kazakhstan interests of **famous trademark's owner on the issue of unlawful using trademark and other attributes of foreign trademark** (duly registered). Obtaining preliminary prohibition of using trademark before judgement;
- Representation interests of the **Mospromstroy holding and Safmar group in Kazakhstan** (corporate issues, renting relationships, disputes in courts);
- For one of the **system making communications provider** in Kazakhstan, we have developed a detailed Legal Memorandum on **construction of non-permanent structures like antenna's and mast's**;
- We have developed a **practical decision for the immediate construction initiation of the Alaygyr project in the center of Kazakhstan** – factory of ore mining and processing;
- **Consulting the audit consulting big four companies** on the subject of entry into Kazakhstan's market the construction companies from China and Austria;
- **Obtained the first category licenses** to perform design and construction works, execution of research. The client was one of the world leaders in the sphere of construction of energy projects and power plants;
- **Construction of a gas pipeline** in the Republic of Kazakhstan for one of the largest manufacturing companies with headquarter in USA;
- **Debt collection** of general contractor (large Kazakhstani holding company) under the contracts in favor of subcontracting construction companies in Kazakhstan;
- Legal support of design group from Portugal, the **Saraiva+Associados in Kazakhstan** on different issues (project documentation development, contractual relationships, corporate issues);
- Representation interest of Spain **design buro in Kazakhstan while design development of pavilions for EXPO 2017 Astana** (contractual relationships, settlement agreement);
- **Resolving the case for one of the electronics manufacturing company from Korea**, which has production factory in Kazakhstan – searching different ways to resolve questions related to disputable real estate (land matters, architectural and town-planning matters);
- **Representation interests of contractor from Kazakhstan in arbitration.** Representing the local counter party against the structure of **Lukoil group**;
- Preparation and comprehensive legal support in addressing the **management of the complex of residential buildings (with the cost over 200 million USD)** in the city of Almaty for the management company;
- Legal support in **wind power station construction** (in west Kazakhstan) for **Japan green field construction firm**;
- Due diligence on the **acquisition of the international airport** in the Republic of Kazakhstan (the study of judicial prospects, risk assessment, and recommendations on the project implementation);
- Legal support to the project of **construction of the heat distribution trunk pipeline** in the center of Astana city;
- Legal support in construction of **Gloryway greenhouse for rose cultivation in Almaty region**;
- We have provided comments to the **potential contractor from India on sea port Aktau reconstruction under FIDIC Yellow Book**;
- Legal support in the construction of the **Almaty Financial District (bank buildings) and Esentai Park, worth of more than USD 1 billion**;
- FIDIC based contracts consulting for the **state owned company**. The Client is intend to finance some **infrastructure projects in Kazakhstan based on state program (housing for Kazakhstan citizens) with implementing FIDIC approach**;
- Dealing with issues of **economic concentration** of the development company (Antimonopoly regulation);
- Representing the Client in court in the proceeding against JSC International Airport Astana (IA Astana) in the Supreme Court of the Republic of Kazakhstan, under the contract on the basis of **public procurement**;
- **Claim settlement and litigation** with the contractor Enka Insaat. **The amount of claims was about USD 30 million**;
- **Representing the Italian construction company engaged in road construction**, in the proceeding against the contractor who precluded the enforcement of security – the bank guarantee to the total amount of over USD 2.5 million.



# Reconstruction of the Aktau seaport

Counseling the Indian construction company (potential contractor) to work with FIDIC contracts in Kazakhstan

## Real estate construction


(EPC and EPCM contracts, the FIDIC proforma)

Artyushenko & Partners law firm lawyers were the first in Kazakhstan, who completed the full course of enhanced training in practicing and application of FIDIC forms. Most international development banks provide the financing for the construction projects only if these FIDIC standard forms are applied.

The goal of Artyushenko & Partners law firm is to ensure the smooth progress of a construction project of any complexity, and its timely implementation without any unforeseen legal issues.

### We provide the following legal support in construction:

- Legal support in negotiations, the Russian and English languages;
- Development legal support at the project design stage, aimed to find optimal solutions and achieve the ultimate goals;
- Legal support for the construction, renovation and repairs of residential, commercial and industrial real estate;
- Selecting the appropriate contract form (procurements and subcontracting), including EPC, EPCM, FIDIC (construction, engineering, construction management), risk assessment (consulting, legal support) in the construction and design of industrial facilities, power plants, and infrastructure projects, and the building of complex and individual structures;
- Legal expertise of contracts for construction, design, procurement and subcontracting;
- Structuring and legal support of transactions on the purchase and sale of real estate (finished, unfinished one) both as individual objects and in complex;
- Due diligence;
- Advice on administration of contracts;
- Legal support of claim procedures, pre-trial settlement of disputes;
- Litigation under FIDIC in courts in Kazakhstan and in arbitration outside Kazakhstan;
- Legal opinions on specific issues.



# Abu Dhabi Plaza Astana

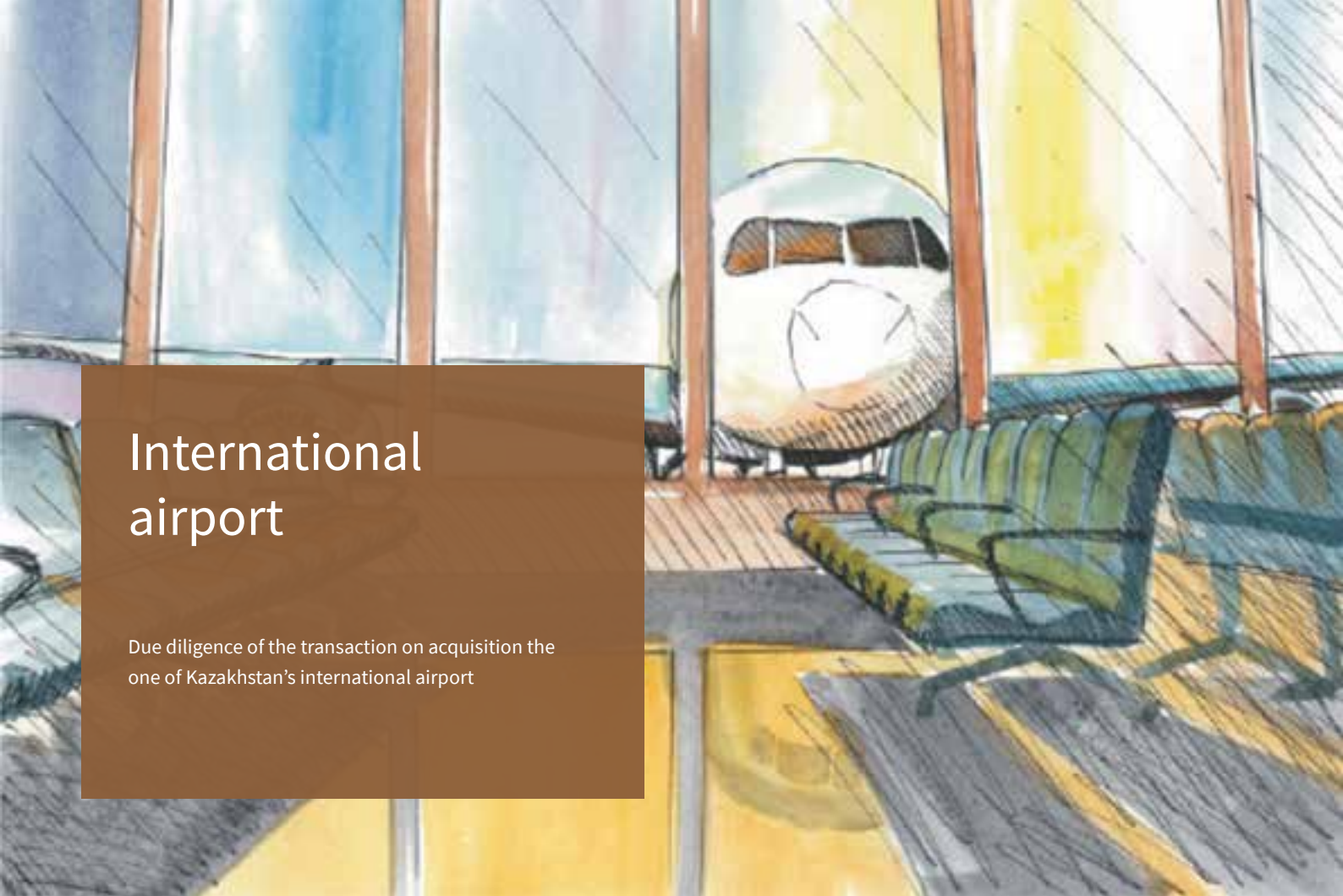
Counseling the contractor with EPC contracts

## Property management

Complexity of local laws and the roman-german approach to law system, in general, especially for foreign asset management companies are often an obstacle to the successful application of western practices and case studies. The problem is not only that there are just a small number of cases implemented in practice, but also that the frequently changing rules of law require constant monitoring and adjustment of particular schemes.

### **Our company provides the following law services in real estate (property) management:**

- Choosing the form, and the structuring of transactions and ways to manage the facility/project (work with the developers, managers of shopping centers, office buildings and mixed-use facilities)
- Legal support of developers and property owners
- Renting of commercial property
- Beneficial ownership
- Development of contracts and agreements in the field of property management (renting of office premises of Class A and B, shopping centers and areas in them; the solving of issues related to peculiarities of management)
- Updating the existing contracts (recommended at least once a year)
- Due diligence
- Legal support of claim procedures, pre-trial settlement of disputes;
- Litigation under FIDIC in courts in Kazakhstan and in arbitration outside Kazakhstan;
- Legal opinions on specific issues.



# International airport


Due diligence of the transaction on acquisition the one of Kazakhstan's international airport

## Corporate law

The Artyushenko & Partners law firm provides legal support to foreign construction and development companies that are interested in developing their business in the Republic of Kazakhstan.

### We provide legal assistance in:

- Corporate reorganization and restructuring
- Development and planning of corporate structures
- Advice on investment and divestment
- Competitive regulation, market concentration
- Licensing of construction & assembling works and design (in all categories and subtypes) and survey activities
- Advising on issues of licensing (identification of the category, and the compliance with the qualification requirements, etc.)
- Due diligence
- Legal support of claim procedures;
- Pre-trial settlement of disputes
- Litigation in courts in Kazakhstan and arbitration outside of Kazakhstan;
- Legal opinions on specific issue.



# Almaty Financial Centre

Counseling the construction of the Almaty Financial District (bank buildings), worth of more than USD 0,5 billion

## Litigation

Importantly, the sooner our company is involved in the legal proceeding, the more effective way we will use all remedies available in Kazakhstan's laws in favor of our client. Timely initiation of the legal proceeding will be your advantage only if you do it with the help of the consultant specializing on relevant issues. We have been working in the market of legal support for real estate and corporate matters from 2005.

### Our services in litigation are:

- Legal support in dispute resolution relating to the construction and/or management of real estate (property);
- Legal support in settlement of corporate disputes;
- Pre-trial settlement of disputes
- Claim procedures
- Representation of interests in the state courts of any instance (first instance, appeal, cassation, the Supreme Court of the Republic of Kazakhstan)
- Challenging government actions;
- Representing interests in arbitration in Kazakhstan and outside of Kazakhstan
- Representation in arbitration proceedings;
- Provision of our experts as arbitrators in arbitrations (Kazakhstan International Arbitration (KIA), the International Commercial Arbitration Court of the Eurasian Center for Mediation (ICAC), and others);
- Due diligence;
- Legal opinions on specific issues
- Searching/hiring the foreign English Law consultants for the litigation and arbitration outside of Kazakhstan