



IN THE SMALL CLAIMS COURT

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

22 January 2025

CASE No: AIFC-C/SCC/2024/0021

MR SULTANBEK ABILOVICH OTEGENOV

Claimant

v

(1) NEF QAZAQSTAN LIMITED LIABILITY PARTNERSHIP  
(2) TIMUR GAYRIMENKUL GELIŞTİRME YAPI VE YATIRIM A.Ş.  
JOINT STOCK COMPANY

Defendants

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COST JUDGMENT

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Justice of the Court:

Justice Josephine Higgs KC

## JUDGMENT

1. The Claimant, Mr Sultanbek Abilovich Otegenov, brought a claim against NEF Qazaqstan LLP (the “**First Defendant**” or the “**Issuer**”) and Timur Gayrimenkul Geliştirme Yapi ve Yatırım A.Ş. JSC, claiming, in summary, repayment of matured bonds KZX000001805 (the “**Bonds**”) issued by the First Defendant and guaranteed by the Second Defendant, together with interest and costs.
2. By a Judgment dated 23 October 2024 (the “**Judgment**”), I ordered the First and Second Defendants to pay the sum of USD 75,540.27, in respect of the principal sum claimed, interest and the Court fee.
3. In his Claim Form, the Claimant also sought costs / attorney’s fees. Paragraph 5.1 of the Judgment recorded that Rule 26.9 of the AIFC Court Rules provides that the Small Claims Court may not order a party to pay a sum to another party in respect of costs, fees and expenses except for such part of any Court fees as the Small Claims Court considers appropriate, or such further costs as the Small Claims Court may assess by the summary procedure and order to be paid by a party who has behaved unreasonably.
4. In paragraph 5.2 I stated that I considered it was appropriate that the Defendants should pay the Claimant’s Court fee in the sum of USD 350.91.
5. Paragraph 5.3 of the Judgment recorded that I did not have any information as to the amount of any other costs incurred by the Claimant, and that I did not consider it appropriate to order the Defendants to pay any other costs.
6. However, by paragraph 5.3 of the Judgment I permitted the Claimant, if so advised, to file a written statement of costs setting out the amounts claimed and brief grounds on which costs were sought within 28 days of the date of this Judgment, and permitted the Defendants, if so advised, to file any response within 28 days thereafter. Paragraph 5.3 stated that I would then determine the Claimant’s claim for costs on the papers.
7. The Claimant duly made an application for costs dated 15 November 2024. In accordance with paragraph 5.3 of the Judgment, the Claimant’s application set out the amounts claimed, which total USD 1,960, and the brief grounds on which costs were sought. The Claimant submitted that he was entitled to the full amount of costs: the claim had been successful and the general rule is that the unsuccessful party is ordered to pay the costs of the successful party; the Claimant had required legal assistance in order to litigate before the AIFC Court; and the sum claimed was reasonable and was supported by the statement of costs.
8. The Defendants did not file a response within 28 days thereafter. The Defendants were reminded of the costs application by the Registry on 27 December 2024, 10 January 2025 and 14 January 2025.
9. Having considered the Claimant’s application for costs, I dismiss the Claimant’s applications for the reasons set out below.
10. As the Claimant notes, he was the successful party, and the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party (Rule 26.5 of the AIFC Court Rules).
11. However, by Rule 26.9 of the AIFC Court Rules, the Small Claims Court does not have power to order a party to pay a sum to another party in respect of costs, except (1) for such part of any Court fees as the Small Claims Court considers appropriate, or (2) such further costs as the Small Claims Court may assess by the summary procedure and order to be paid by a party who has behaved unreasonably.

12. As noted above, I have already ordered that the Defendants should pay the Claimant's Court fee. I have carefully considered whether I should order the Defendants to pay the other legal costs which the Claimant has incurred, on the basis that the Defendants have behaved unreasonably.
13. I do not consider that the Defendants have acted "unreasonably" for the purposes of Rule 26.9. In particular, I note that the First Defendant acknowledged in its Defence that the principal sum claimed was due. I also bear in mind that the First Defendant did not object to the Claimant's Claim being determined on the papers, or otherwise act in a way which materially increased the costs incurred. In all the circumstances, I am not persuaded that this would be an appropriate case in which to make an award of costs pursuant to Rule 26.9(2)
14. For the reasons set out above, the Claimant's application is dismissed.

By Order of the Court,

Josephine Higgs KC,  
Justice, AIFC Small Claims Court

**Representation:**

The Claimant was represented by Mr Bakhyt Tukulov, Partner, Tukulov Kassilgov Shaikenov Disputes LLP, Almaty, Republic of Kazakhstan.

The First Defendant was represented by Mr Ruan Batykov, ILF A&A Limited Liability Partnership, Almaty, Republic of Kazakhstan.

The Second Defendant was not represented.