



IN THE SMALL CLAIMS COURT

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

5 December 2023

CASE No: AIFC-C/SCC/2023/0032

Mr Sayan Abdikhairanov

Claimant

v

Astana International Exchange Ltd

Defendant

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JUDGMENT

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Justice of the Court:

Justice Charles Banner KC

### ORDER

1. The hearing is adjourned until Tuesday 16 January 2024.
2. Each party has liberty to apply to the Court to extend this date.

### JUDGMENT

1. The Claimant in these proceedings is Mr Sayan Abdikhairanov. The Defendant is his former employer, Astana International Exchange Ltd (“**AIX**”) for whom he worked from 23 April 2019 until 30 March 2022.
2. In the Claim Form and at the hearing on 1 December 2023, Mr Abdikhairanov gave a clear and convincing account of the factual background. In the light of this, the Court makes the following factual findings, which Ms Guldana Mirasheva for AIX confirmed that AIX does not contest:
  - 1) In 2014 Mr Abdikhairanov was awarded a prestigious Bolashak scholarship by the Republic of Kazakhstan, which provided for him with funding to study at the University of Reading in the United Kingdom, where he graduated with a LLM in International Banking Law.
  - 2) The terms of the scholarship were, and still are, governed by a Tripartite Agreement made between Mr Abdikhairanov, his employer at the time (the General Prosecutor’s Office of the Republic of Kazakhstan).
  - 3) Under the Tripartite Agreement, Mr Abdikhairanov was required upon graduation to return to the Republic of Kazakhstan within 15 days, which he did on 27 February 2017, and thereafter work for his employer or in other organisations located in Kazakhstan for a period of at least 5 years.
  - 4) On 17 March 2017 Mr Abdikhairanov was appointed as Head of the Division for the Supervision of Environmental Legislation at the General Prosecutor’s Office, in which role he worked for 137 days. On 4 August 2017 he changed jobs to work at Tsesnabank JSC as a lawyer, where he worked for 620 days. On 23 April 2019 he moved to AIX, where he worked as a Senior Associate in the Issuer Regulation Department.
  - 5) During the COVID-19 pandemic, Mr Abdikhairanov performed this role remotely. Following the lifting of COVID-related restrictions, he moved to the USA on 21 April 2021 and, with AIX’s agreement, continued to work remotely in the same role as before until 23 April 2022.
3. The Centre for International Programs JSC (“**the CIP**”), which administers the Bolashak scholarship programme, has expressed the view that Mr Abdikhairanov’s remote work from the USA does not qualify as relevant work for an organisation located in Kazakhstan.
4. In the light of this, Mr Abdikhairanov invites the Court to order AIX to file a report to the CIP confirming that he has worked for AIX in full accordance with his terms of employment from



23 April 2019 until 30 March 2022, thus completing 5 years of post-graduation employment for organisations based in Kazakhstan.

5. Ms Mirasheva submits that the Court has no power to order AIX to do so, because it was not a party to the Tripartite Agreement. Mr Abdikhairanov disputes this.
6. That dispute is a matter that the Court may need to resolve. However, it may not need to do so, because Ms Mirasheva also told the Court at the hearing on 1 December 2023 that AIX has considerable sympathy with Mr Abdikhairanov's predicament and is content to send CIP a report in the terms outlined paragraph 4 above. If it does so, then (possibly depending on CIP's response), it may not longer be necessary for the Court to determine this claim.
7. The Court concludes that it is in the interests of justice and in accordance with the overriding objective in Rule 1.6 of the AIFC Court Rules for this short judgment to be issued, making the factual findings in paragraph 2 above, and for the hearing to be adjourned until 16 January 2024, to provide 4 working weeks (allowing for the Christmas and New Year period) for AIX to submit the report and for CIP to consider it. If more time is needed, either party may apply to the Court for an extension of this date.
8. If, having been provided with this judgment and AIX's report, CIP change their stance, then the parties may be in a position to discontinue the proceedings. Otherwise, following the end of the period of adjournment, the Court will make directions for the future progress of the case. If AIX does not submit the report as it told the Court it would, this may have costs consequences.

By Order of the Court,

A handwritten signature in black ink, appearing to read 'Charles Banner'.

Charles Banner KC

Justice, AIFC Small Claims Court



Representation:

The Claimant was represented by himself.

The Defendant was represented by Ms. Guldana Mirasheva, Head Legal at Astana International Exchange Ltd, Astana, Kazakhstan.