

PRACTICE DIRECTION NO.2: AIFC COURT GUIDE TO JUDICIAL CONDUCT 2023

The Judges of the Astana International Financial Centre Court (“**the Court**”) have decided to adopt this Guide to Judicial Conduct with regard to their individual and collective conduct as Judges of the Court. The Guide relates to principles which are fundamental to the rule of law and to a fair trial, and is observed by all Judges of the Court in their decisions and the processes by which their decisions are reached. The Guide draws significantly on the United Nations endorsed Bangalore Principles of Judicial Conduct.

Judicial Affirmation

The judicial affirmation affirmed by each of the Judges read as follows:

“I, [name], do solemnly, sincerely, and truly declare and affirm that I will well and truly serve the Republic of Kazakhstan as a Judge of the Astana International Financial Centre Court and I will do right to all manner of people after the Constitution of the Republic of Kazakhstan and acting law of the AIFC, without fear or favour, affection or ill will”.

Guiding Principles

1. Independence

- 1.1. Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair determination of any case. The Judges shall at all times uphold and exemplify judicial independence in both its institutional and individual aspects and in relation to both society and the parties in any case.
- 1.2. The Judges should in particular ensure that their conduct does not undermine their institutional or individual independence, or the parties’ and the public’s perception of that independence.
- 1.3. The Judges shall exercise their judicial function independently, making their own assessment of the facts and of the relevant legal principles, free from extraneous or hierarchical pressures, influences or interferences, direct or indirect.
- 1.4. The Judges may consult with their colleagues when points of difficulty arise on matters of conduct. But they are solely responsible for the decisions that they take in the performance of their judicial duties.
- 1.5. The Judges should be immune to the effects of publicity, whether favourable or unfavourable.

2. Impartiality

- 2.1. Impartiality is essential to the proper discharge of all aspects of the judicial office. The Judges will perform their judicial duties without bias.
- 2.2. The Judges will recuse themselves from sitting in any case of apparent bias: that is, in any case where a fair-minded observer would consider a real possibility to exist that the Judge would not perform his or her judicial duties without bias.
- 2.3. Such cases include any case where the Judge has or appears to have any economic, financial,

or other commercial interest that conflicts with the interests of those involved in proceedings before them.

- 2.4. Exceptions to the previous three paragraphs exist to the extent that it is open to parties voluntarily to agree otherwise, and may also exist in a real emergency when no other Judge is available and failure to act could lead to a serious miscarriage of justice.
- 2.5. The Judges will disclose to the parties as soon as possible any interest or matter which the Judge considers might be suggested to involve or indicate that the Judge could not perform his or her judicial duties without bias.
- 2.6. The Judges should strive to ensure that their conduct, both in and out of Court, maintains and enhances the confidence of the public, the legal profession and litigants in their personal impartiality and that of the judiciary.
- 2.7. The Judges should, as far as reasonable, avoid extra-judicial activities that are likely to cause them to have to refrain from sitting because of any conflict of interest or apparent bias which would or might be suggested to arise from the activity.
- 2.8. The Judges should take care not to associate with members of the profession who are engaged in current or pending cases at the Court and will recuse themselves from sitting on a case if they are associated with a particular organisation, group or cause in such a way as to give rise to apparent bias.

3. Integrity

- 3.1. Integrity is fundamental to the proper discharge of the judicial office. Judges should act honestly and honourably not only in their judicial office, but in all aspects of their lives.
- 3.2. The Judges should conduct themselves at all times in a manner which reaffirms confidence in their and the Court's integrity, and avoid any conduct and associations which might undermine such confidence, in the eyes of a reasonable observer.
- 3.3. Without limiting the principles in the previous two paragraphs, no Judge, or family member or associate of a Judge, will ask for or receive any benefit or favour in relation to anything to be done or omitted to be done by the Judge in connection with his or her judicial office; and no Judge will knowingly permit any court staff member or similar person to ask for or receive any such benefit or favour in relation to anything such act or omission.
- 3.4. The Judges will seek to be courteous, patient, tolerant and punctual, and to respect the dignity of all in Court.

4. Propriety

- 4.1. The Judges should avoid impropriety and the appearance of impropriety in all of their activities. They shall not exploit their judicial office or title to obtain any personal favour or benefit, including any preference.
- 4.2. The Judges must accept personal restrictions, which might be viewed as burdensome by others. The following paragraphs contains some illustration of this principle.
- 4.3. The Judges should, in their personal relations with members of the legal profession practicing in front of them (either regularly or in a particular case), avoid situations which might give rise to the suspicion or appearance of bias, in the eyes of a reasonable observer.
- 4.4. The Judges enjoy a right of freedom of expression, and may in particular speak publicly about the AIFC Court, its law and procedure, on issues of law reform and on matters affecting the

judiciary generally. They should however be cautious about expressing any public views on issues or conduct which may come before them for consideration in the discharge of their judicial duties, because of the risk of a suggestion of actual or apparent bias.

- 4.5. The Judges may make arrangements involving reimbursement of travel and accommodation expenses in the context of activities which are authorised by paragraph 4.4 above, for example the giving of a speech.
- 4.6. Caution should always be exercised when considering whether to accept any gift or hospitality which might appear to relate in some way to their judicial office and might be construed as an attempt to attract judicial goodwill or favour. Although the judges cannot be remunerated for giving talks or lectures in relation to their judicial role or activity, the acceptance of a gift or hospitality of modest value as a token of appreciation may, depending on the circumstances, be unobjectionable; judges may however consider suggesting a contribution to charity as an alternative to any proposed small gift.
- 4.7. The Judges may serve as members of official bodies, government commissions, committees and advisory bodies, and bodies that are academic, voluntary, charitable or religious in Kazakhstan, but they should take care to limit their involvement in matters which may be contentious in Kazakhstan. Membership of such bodies must not bring into doubt their impartiality or political neutrality, detract from the dignity of their office or otherwise interfere with the performance of their judicial duties in Kazakhstan.
- 4.8. The Judges should exercise caution when invited to take part in what may, as such, be legitimate marketing or promotional activities, for example by lawyers or others, where the reason for inviting judicial participation may be perceived to be to impress clients or potential clients.
- 4.9. The Judges should not use or lend or permit use of the prestige of their office to advance their own or anyone else's private interests, or convey or permit others to convey the impression that anyone is in a special position improperly to influence the Judge in the performance of his or her judicial duties.
- 4.10. The Judges may not practice law in Kazakhstan, but may act as mediators and arbitrators either (a) in Kazakhstan or in a Kazakhstan-seated arbitration, subject in such a case to obtaining the Chief Justice's permission, or (b) in any other case elsewhere. They will however be disqualified from involvement as a Judge in any case in the AIFC Court in relation to which or to the subject-matter of which they previously acted as a mediator or arbitrator.

5. Equality

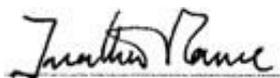
- 5.1. The Judges should be aware of, and understand, diversity in society and differences arising from matters such as gender, race, ethnicity, colour, national origin, religion, caste, disability, birth or marital status, sexual orientation, socioeconomic or educational or occupational background, and the like. A Judge will not, by words or conduct, show any bias against or preference towards any person or group on any such ground.
- 5.2. In Court, the Judges will strive to ensure that no one in the Court or involved in any proceedings before the Court is exposed in the course of any such proceedings to any display of bias or prejudice on any such ground and that all are treated with equal respect by the Judges, their staff and everyone appearing in or attending the Court. The Court will strive to make reasonable adjustments for people with disabilities and for those who wish to manifest their religion, so far as it is practicable to do so.

6. Competence and Diligence

- 6.1. The Judges shall ensure the proper performance of their judicial duties as Judges of the Court and take reasonable steps to maintain and enhance their knowledge, skills and competences in that connection.
- 6.2. To that end, the Judges shall keep themselves informed about the constitution, laws, procedures and jurisprudence of the Court, as these exist and develop from time to time, as well as of any relevant international law.
- 6.3. The Judges will also ensure that they are able to perform their judicial duties, including the issue of reserved judgments, efficiently, fairly and with reasonable promptness.

This Practice Direction prescribes the guide to judicial conduct at the AIFC Court that will come into effect on 18 October 2023.

Approved by the Chief Justice of the AIFC Court in accordance with Article 30 of the AIFC Court Regulations 2017:



**The Rt. Hon. The Lord Mance
Chief Justice, AIFC Court
(For and on behalf of all the Judges of the AIFC Court)**

Date: 18 October 2023