



IN THE COURT OF APPEAL
OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

28 March 2025

CASE No: AIFC-C/CA/2024/0046

International Academy of Medicine and Sciences
Limited Liability Partnership

Claimant/Respondent

v.

State Institution “Health Department of Almaty Region”

Defendant/Appellant

JUDGMENT ON COSTS

Justice of the Court:

Justice Sir Stephen Richards

ORDER

The Defendant is ordered to pay to the Claimant the total sum of KZT 2,015,000 by way of costs.

JUDGMENT

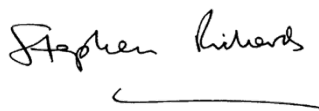
1. The Defendant's application for permission to appeal in this case was refused by a judgment and order dated 28 January 2025. The Claimant has now applied for an order for costs in the sum of KZT 5,000,000 in respect of legal assistance in the preparation of written objections to the permission application, and KZT 15,000 in respect of translation and document processing.
2. The Defendant has submitted objections to the Claimant's costs application. The Claimant, in turn, has applied to strike out the Defendant's submission on the ground that it was filed just over 2 days after the time limit set by the Court. I refuse the Claimant's strike-out application and grant an extension of time for the Defendant's submission. The failure to meet the time limit was minor and caused no prejudice. The Claimant's strike-out application is based on an unmeritorious technicality.
3. The Defendant submits that the Claimant's costs application should not be considered by this Court because it is directed to the wrong Court: it uses the case reference of the case before the Court of First Instance (Case No: AIFC-C/CFI/2023/0038) instead of that of the application to the Court of Appeal for permission to appeal (Case No: AIFC-C/CA/2024/0046). That submission is equally technical and unmeritorious. It is clear from the accompanying email and from the wording of the costs application itself that the costs application relates to the Defendant's application for permission to appeal. It is appropriate for this Court to consider it.
4. By Rule 26.5(1) of the AIFC Court Rules, the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party. But Rule 26.5(2) provides that the Court may make a different order; and as stated in paragraph 4 of the Court's reasons for the costs order dated 12 November 2024 in Case No: AIFC-C/CFI/2024/0018, *Michael Wilson & Partners, Limited v. CJSC Kazsubton and Others*:

"The Court has a wide discretion under Rules 26.4 and 26.5 of the AIFC Court Rules as to the award of costs. Whilst it can be helpful to receive submissions from a respondent in opposition to an application for permission to appeal, the Court's power to award costs in respect of such submissions can be expected to be exercised sparingly even where permission to appeal is then refused."

5. In this case the Claimant is the successful party and its written objections to the permission application were helpful to the Court, as is evident in particular from paragraph 5 of the Court's judgment of 28 January 2025. Having regard to all the circumstances, I consider it appropriate to make an award of costs in the Claimant's favour. It is also appropriate to proceed to an immediate assessment under Rule 26.13(1).

6. Where costs are awarded, the Court will allow costs that were reasonably and necessarily incurred and were proportionate to the matters in issue (Rule 26.11). I would stress the importance of proportionality in relation to submissions at the permission stage.
7. The sums claimed are supported by a legal services agreement and payment receipts. The total remuneration provided for under the legal services agreement is KZT 10,000,000, split equally between preparation and submission of an objection to the permission application (KZT 5,000,000) and the conduct of the substantive appeal in the event that permission to appeal was granted (KZT 5,000,000). The amount thereby allocated to the permission stage was in my view unreasonable and disproportionately high, given the limited nature of the exercise required at that stage. A figure of KZT 2,000,000, would be more appropriate. The additional sum of KZT 15,000 claimed in respect of translation and document processing is acceptable.
8. Accordingly, I will order the Defendant to pay to the Claimant the total sum of KZT 2,015,000 by way of costs.

By the Court,



The Rt. Hon. Sir Stephen Richards

Justice, AIFC Court



Representation:

The Claimant was represented by Mr. Sergei Vataev, Mr. Ilya Kirichenko and Mrs. Yelena Dvoretzkaya-Yussupova, Advocates, Legit Advocates' Bureau, Almaty, Republic of Kazakhstan.

The Defendant was represented by Mr Valery Lim, Deputy Head of the State Institution "Health Department of Almaty Region".