



IN THE COURT OF APPEAL

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

1 October 2026

CASE No: AIFC-C/CA/2026/0028

State Institution "Health Department of Almaty Region"

Claimant

v.

International Academy of Medicine and Sciences LLP

Defendant

JUDGMENT AND ORDER

Justice of the Court:

Justice Tom Montagu-Smith KC



ORDER

UPON the judgments of Justice Lord Faulks dated 6 March 2026 and 12 May 2026 (“the Judgments”).

AND UPON the Claimant’s application for permission to appeal the Judgments (“the Application”).

AND UPON the judgment of 17 July 2026 rejecting the Application.

AND UPON the Defendant’s application for an Order requiring the Claimant to pay the Defendant’s costs of the Application.

IT IS ORDERED THAT:

1. The Claimant shall pay the Defendant’s costs of the Application, summarily assessed in the sum of KZT 2,000,000, such costs to be paid within 14 days.

REASONS

1. The application for permission to appeal of the Claimant (the Defendant in the original Claim No. 28 of 2024) was rejected. The Defendant expended costs in resisting permission. It has been the successful party. In the circumstances, it should ordinarily be entitled to its costs.
2. The Claimant makes 3 points in response.
3. First, it says the Order of 10 July 2026 made no order as to costs. As such, under Rule 26.18, the general rule is that no party is entitled to its costs.
4. Rule 26.19 provides for exceptions. They include an order granting permission to appeal and any other order sought without notice. Those, it is said, do not apply.
5. The rule is only a general rule. The Court retains discretion to depart from that rule and Rule 26.18 does not prevent that. In this case, the Defendant was not given a chance to seek its costs before the Order of 10 July 2026. It is open to the Court to permit it to do so. That is the right course.
6. Second, the Claimant complains that the Defendant’s costs are not broken down into descriptions of work, hours spent, and rates applied. The Defendant entered into a fixed fee agreement for KZT 10,000,000 split equally between 2 phases: the application for permission to appeal; and the appeal itself.
7. It is usually helpful for the Court to be informed of the work done, identity of fee earners, hours spent and rates applied so that it can assess whether the fees charged are reasonable. A failure to do so does not in itself mean that nothing is recoverable. It may however lead to the Court being somewhat conservative in its assessment. In particular, there is nothing wrong with a party agreeing a fixed fee for work. However, some sense of how that fee was arrived at and what work it relates to will help in the assessment.

8. Doing the best I can, the total fee of KZT 10,000,000 for the whole appeal process (c.USD 22.6k) does not seem excessive overall. However, I would expect the work associated with that to be heavily weighted towards the substantive appeal. I would not normally expect half the work to be carried out on the permission stage. In those circumstances, I would be inclined to conclude that no more than 20% of the overall fee would be associated with the work on the permission stage.
9. The Claimant further complains that the fee agreement has not been produced and no act of acceptance of legal services has been provided. While a payment order has been provided, there is no document confirming receipt of funds. I would not expect to see those documents on a summary assessment of this sort. The submissions are signed by counsel, an unsigned copy of the agreement has been produced and the invoice and payment order further support the case that the sum has been incurred. I am satisfied that it has been incurred.
10. The Claimant claims that the Defendant's counsel were familiar with the case and so would not have needed to spend significant time on the submissions. As set out above, I consider the overall level of fees to be reasonable. I would however expect less of that fee to be incurred for the permission stage.
11. In the circumstances, doing the best I can, I assess the Defendant's costs in the sum of KZT 2,000,000.

By Order of the Court,

Justice Tom Montagu-Smith KC
Justice, AIFC Court

Representation:

The Claimant was represented by Ms Galiya Turlybekova, General Department Specialist, State Institution "Health Department of Almaty Region", Almaty, Republic of Kazakhstan.

The Defendant was represented by Mr Sergei Vatajev, Ms Elena Dvoretzkaya-Yussupova, Advocate, and Mr Ilya Kirichenko, advocates, Legit Advocates' Bureau, Almaty, Republic of Kazakhstan.