IN THE COURT OF FIRST INSTANCE

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

30 October 2026

CASE No: AIFC-C/CFI/2025/0070

CLAIMANT

Claimant

v

DEFENDANT

Defendant

COSTS ORDER

Justice of the Court:

Justice Tom Montagu-Smith KC

ORDER

1. The Claimant shall pay the Defendant's costs of the claim assessed in the sum of USD 37,000 plus VAT (being USD 42,920) by 16:00 Astana time on Friday, 13 November 2026.

REASONS

1. On 7 October 2026, I dismissed the Claimant's claim challenging the decision of an arbitrator on jurisdiction.

2. The Defendant seeks an order requiring the Claimant to pay its costs. The Defendant does not resist the order sought in principle, but takes issue with the quantum.

3. In total, the Claimant claims USD 43,390 plus VAT of 6,942.40 = USD 50,332.40. The Defendant says that costs should be assessed in the sum of USD 19,700. That appears to be the ex-VAT assessment sought. With VAT at 16%, the total would be USD 22,852.

4. Both parties seek a summary determination of costs.

5. The Defendant makes a number of overarching submissions, which I address before turning to the items of costs claimed.

6. First, the Defendant says that sums sought for work on witness statements should be disallowed because no witness was heard on the claim and any statements must have been taken from the underlying arbitration. It is right that no live witness evidence was heard. However, 2 witness statements were submitted. They were new statements for this claim. They were submitted in response to the Claimant's assertions about the way in which work under the underlying contract was managed and progressed. The Claimant had argued that those assertions were relevant to the Court's conclusion on whether or not the arbitration agreement applied. In those circumstances, I consider that it was reasonable to submit those statements and I reject this complaint.

7. Second, the Defendant complains that the Claimant claims time for 3 fee earners for every stage of the proceedings. That is not, in my view, problematic in and of itself. I will of course consider whether there has been any duplication or overclaiming in respect of each item.

8. Third, the Defendant argues that client correspondence and reporting should not be allowed. I disagree. Those are natural incidents of the claim.

9. Fourth, the Defendant says the overall sum claimed is disproportionate. I will consider the overall proportionality in the round after I have gone through each item. For now, it cannot be said that the sum claimed is exorbitant.

10. Fifth, complaint is made about the attendance of 3 lawyers at the hearing. That is not, in my view, a problem in and of itself. It is usually the case that the lawyers presenting the case will be assisted by the attendance of a junior lawyer.

11. Sixth, the Claimant notes that the Defendant submitted documents late, in one case by 10 minutes, in another by 24 hours. In the latter case, the document substantially revised the submissions which

had previously been made. It seems to me that there is likely to have been some overlap and wasted time in relation to that submission and I take it into account in my assessment. I do not however make any other general deduction for late submission.

12. The Defendant complains that there are no invoices or time records provided. That is the usual course in summary assessment. The Defendant has submitted what it says has been incurred in these proceedings. The schedule is signed by the partner with conduct of the proceedings and there is no reason to doubt that the sums claimed have in fact been incurred.

13. Finally, I make no deduction for the costs of preparing costs submissions. Those seem to me to be an ordinary incident of proceedings.

14. The Defendant proposes a number of specific deductions to the items claimed. I have considered them carefully and make the following deductions.

15. Item 2(d) claims USD 3,747 plus VAT for preparing the amended Defence. The Defence was amended to introduce a new argument based on the Claimant's submission of a counterclaim in the arbitration. I ultimately rejected that argument. In those circumstances, it seems to me right that I should disallow the costs associated with the amendment.

16. Item 4(c) – post-hearing submissions claimed at USD 2,129. As I have said above, it appears to me that some time was lost in revisiting those submissions. I deduct USD 1,000 from this item.

17. With those deductions, the total claimed becomes USD 40,261 plus VAT.

18. Across the various elements of the document phase of the claim, the Defendant incurred time of 14 hours (acknowledgment of service and considering jurisdiction / preliminary position) 47.5 hours (drafting, revising and filing defence), 20.9 hours (preparing and reviewing exhibits) and 33.9 hours (analysis of reply and preparing witness evidence), giving a total of 116.3 lawyer hours across the 3 fee earners. It seems to me that there was inevitably some limited duplication in that work, for which I make allowance.

19. Doing the best I can, I assess the Defendant's costs at USD 37,000 plus VAT, being USD 42,920. That appears to me to be a reasonable sum to spend on a claim which raised a large number of points, some of which required careful thought. I order that such costs be paid within 14 days.

By the Court,

Justice Tom Montagu-Smith KC,
Justice, AIFC Court

Representation:

The Claimant was represented by Mr Aidar Kashkarbayev, Ms Dinara Cherniyazova, Ms Kamar-Sulu Yermekbayeva, lawyers, Almaty, Kazakhstan.

The Defendant was represented by Mr Bakhyt Tukulov, Partner, Ms Mariya Petrenko, Senior Associate, TKS Disputes LLP, Almaty, Kazakhstan.