

UK judges head new court in Kazakhstan

The former lord chief justice Lord Woolf will be joined by eight others to run the first commercial court of its kind in Eurasia

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Lord Woolf, seen in his newly designed robes at his swearing-in ceremony, will sit in Kazakhstan's Court of Appeal

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So little is known about Kazakhstan that most people's impressions are derived from Borat, the hapless reporter portrayed by the comedian Sacha Baron Cohen. That is about to change. One of the leading judicial figures in the UK, the former lord chief justice Lord Woolf, has been appointed to be the chief justice of a new commercial court in Kazakhstan, with eight other judges and senior lawyers from the UK.

The move follows similar courts in places such as Singapore, Hong Kong, Dubai, Abu Dhabi and Qatar and is being established as part of a modernisation programme involving the Astana International Financial Centre (AIFC), with a view to make it the leading financial centre in Central Asia.

"This is the first court of its kind in Eurasia," Lord Woolf said. "Kazakhstan has a huge border with China and with Russia, and China is building a new silk road that goes right through the country. All these are reasons it could do well."

The judges will all be from the UK and it will use AIFC law, which is essentially English common law — “something in which they have no background at all,” Woolf said. “It will be a sign of the court’s independence and calibre of the judges. The independence is guaranteed in changes to the country’s constitution.”

Lord Woolf was closely involved with setting up a court in Doha, along with Christopher Campbell-Holt, who has been appointed as the new court’s registrar. He was a lawyer with Norton Rose before spending seven years as the registrar in Doha. The idea is similar, but the culture of the two countries quite different. “[Kazakhstan] is a primarily Muslim country, but it is a very liberal form of Islam and people are free to practise all religions. Some 25 per cent of the population are Russian Orthodox. Sharia law will not be used in the courts,” he says.

As for the country’s human rights record, Woolf insists there is equality between the sexes and says it is moving away from male-dominated traditions. The judges’ involvement shows backing for President Nazarbayev, who has been pushing for reform since the country’s independence from Russia in 1991. “All the judges are committed to promoting human rights — although these are not the cases the court will handle,” Woolf says.

The court opened at the start of this year, although initially much of the work will involve training the local judiciary and lawyers. It will have a first-tier court and an appeal court, on which Lord Woolf will occasionally sit. There will also be a fast-track procedure for small claims. The cases will be standard commercial and contractual disputes. There will also be a new International Arbitration Centre, and its first chairman will be Barbara Dohmann, QC.

What does it mean for Eurasian disputes now heard in London? Woolf accepts that a “very small number” of cases that would have gone to London might now go to the new court. “But it does not detract from our commercial court; on the contrary, it promotes it in a part of the world that doesn’t have that tradition.”

He adds: “The president has shown vision in creating this financial centre. He wants the world to see English common law being applied in this country and not just in the capital, but to radiate throughout society in years to come as an example of how business should be done and justice done.”

The prestigious line-up of UK judges and lawyers includes Sir Robin Jacob, Sir Stephen Richards, Sir Jack Beatson, Sir Rupert Jackson, Lord Faulks, QC, Andrew Spink, QC, Tom Montagu-Smith, QC, and Patricia Edwards. Beatson and Jackson will take up their appointments when they retire from the Court of Appeal this and next month respectively. An advisory council is chaired by Michael Blair, QC.

The judges will go to Kazakhstan for five main visits a year. All have been sworn in at a ceremony, with the oaths resembling those they have sworn in the UK. They designed their robes to embrace the republic’s colours of light blue and gold.

The diplomatic benefit is clear. “The court will promote English commercial law and recognition of the importance of the rule of law,” Woolf says. “It builds up links between a fast-developing country in Eastern and Central Asia and the UK — so they will look to us for advice and guidance.” And the prospect of AIFC’s success as a commercial centre is “greatly enhanced” if investors can see it is a safe environment with a court that upholds the rule of law.

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