Data Center Warfare and the Evidentiary Threshold for Financial Force Majeure – Applying the 2026 Dubai Cassation Court's Banking Disruption Precedent to the Iran War

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Introduction: Data Center Warfare, AI Targeting, and the Cross-Border Liquidity Squeeze

The 2026 Iran War, initiated by joint U.S.-Israeli airstrikes under Operation Epic Fury on February 28, 2026, has fundamentally altered the risk profile of commercial operations across the Middle East. Beyond traditional geopolitical and economic risks, the current conflict has escalated into "data center warfare," directly impacting the physical digital infrastructure that underpins international banking networks and cross-border liquidity.

As extensively documented in recent months, kinetic strikes on hyperscale cloud infrastructure have transitioned the risk of "banking disruptions" from a theoretical geopolitical issue to a tangible commercial crisis. This targeting is driven by the increasing commingling of civilian tech infrastructure with military intelligence. With U.S. and allied forces utilizing commercial AI models, such as Anthropic's Claude embedded in Palantir's Maven Smart System, for military targeting, commercial data infrastructure has been treated as a dual-use battlefield asset. Consequently, on March 1, 2026, Iranian Shahed drones struck Amazon Web Services (AWS) data centers in the United Arab Emirates and Bahrain.

According to *Responsible Statecraft* ("Why Gulf data centers became deliberate targets in Iran War"), these strikes "knocked out banking apps across a region of 50 million people." *TechPolicy.Press* further reports that the attacks critically impaired the UAE's ME-CENTRAL-1 cloud availability zones, causing immediate outages for major regional financial institutions, including Abu Dhabi Commercial Bank, Emirates NBD, and First Abu Dhabi Bank. The broader financial impacts were immediate: while the GCC's Islamic banking sector demonstrated structural resilience, maintaining 17.1% Tier 1 capital ratios with zero Fitch-rated sukuk defaults, cross-border liquidity tightened severely, and new dollar-denominated GCC sukuk issuance collapsed to zero in March 2026.

This disruption is both reciprocal and systemic. As noted by Georgia Tech, retaliatory strikes on March 11 targeted a Tehran data center operated by Iran's state-run Bank Sepah. The Modern War Institute highlighted that this emerging doctrine of targeting data centers deliberately disrupts digital services to banks and payment platforms to exert coercive economic leverage.

As these infrastructure disruptions choke international liquidity and delay wire transfers, commercial parties in the Gulf Cooperation Council (GCC) may seek to invoke these highly publicized "banking disruptions" and data center outages as a force majeure defense to excuse delayed payments or prevent the forfeiture of transaction deposits. However, as Dubai Court of Cassation Judgment No. 1004 of 2026 (Real Estate), issued on June 29, 2026, demonstrates, invoking the conflict as a blanket excuse for financial non-performance requires meeting a strict legal standard.

The Factual Matrix: The Real Estate Default and the "Regional Tensions" Defense

The dispute in Dubai Cassation Judgment No. 1004/2026 involved a high-value real estate transaction. On April 24, 2025, the appellant (the buyer) entered into a contract to purchase a plot of land in Dubai's Wadi Al Safa 3 for AED 22,000,000. Upon signing, the buyer issued a security cheque of AED 2,200,000 as earnest money (*Arboun*), with the remaining AED 19,800,000 due by June 24, 2025.

When the deadline arrived, the buyer had not transferred the remaining funds. Consequently, the sellers filed a lawsuit to terminate the contract and liquidate the AED 2.2 million *Arboun* cheque.

In their defense before the UAE courts, the buyer argued that the failure to pay was not a voluntary breach, but rather the result of force majeure circumstances. Pointing to the well-documented strikes on regional cloud infrastructure, the buyer asserted that the "regional tensions and the war" had directly affected international bank transfers, creating a circumstance completely beyond their control that prevented them from remitting the balance from abroad. The buyer further relied on electronic correspondence demonstrating their serious intent to close the transaction, noting they had explicitly requested an extension until the international banking disruptions subsided, which the sellers had refused.

The Court's Ruling: Piercing the Blanket Defense of Wartime Disruption

The Dubai Court of Cassation rejected the buyer's defense, ruling in favor of the sellers and affirming their right to terminate the agreement and retain the AED 2.2 million deposit.

Relying on Article 137 of the UAE Civil Transactions Law (Federal Decree-Law No. 25 of 2025), the Court reaffirmed that an *Arboun* payment makes a contract binding; if the buyer subsequently withdraws or fails to perform, the deposit is forfeited. The Court ruled that general claims of “regional tensions” and widely reported cloud banking disruptions do not automatically equate to a legal impossibility to perform.

The Court’s strict stance on financial obligations provides a stark contrast to how regional commercial entities handle physical trade disruptions. For example, following the closure of the Strait of Hormuz in March 2026, QatarEnergy successfully declared force majeure on its LNG supply contracts. While a maritime blockade constitutes an absolute physical impossibility for shipping a localized physical commodity, the Dubai courts recognize that *money is fungible*. A localized cloud outage does not inherently extinguish the ability to source funds globally. The Court found that the buyer was effectively attempting to use macro-level digital and infrastructural instability as a blanket excuse without proving a direct, insurmountable impediment to their specific transaction.

The Implied Evidentiary Threshold for Financial Force Majeure

Crucially, even though the Dubai Court of Cassation rejected the force majeure argument in this specific instance, its reasoning explicitly identified the exact evidence that would have been required to successfully substantiate a defense based on wartime banking disruption.

The Court noted that the defense failed because the buyer *“did not submit any document from a banking entity proving the impossibility of the transfer or its rejection, or anything indicating the existence of a legal ban or freezing of accounts, or an actual impediment preventing payment by any alternative means.”*

Despite highly publicized AWS data center outages and physical strikes on regional tech hubs, the definitive threshold for proving financial force majeure during the 2026 Iran War requires a party to produce:

1. **Official Banking Documentation of Rejection:** Citing reports from *TechPolicy.Press* or global news outlets about targeted strikes on cloud infrastructure is legally insufficient. A litigant must present authenticated documentation issued directly by their specific financial institution explicitly proving the absolute impossibility of the transfer or its outright rejection due to these outages.
2. **Proof of Legal Bans or Frozen Assets:** Administrative delays caused by compromised AWS availability zones do not constitute force majeure. A successful defense requires evidence of a formal legal prohibition, such as wartime capital controls, international sanctions, or official documentation proving that the remitting accounts were frozen by regulatory authorities directly due to the conflict.
3. **Exhaustion of Alternative Payment Methods:** This establishes the highest evidentiary hurdle. Under UAE civil law, financial obligations are rarely extinguished by external events because money is fungible. The Court explicitly required proof of an "actual impediment preventing payment by any alternative means." A party must demonstrate that they were entirely blocked from utilizing alternative financial routing, third-party liquidity, local assets, or localized credit facilities to fulfill the obligation, even when primary cloud or telecom routes failed.

Strategic Playbook for Cross-Border Financial Obligations in the 2026 Context

For commercial counterparties and foreign investors managing cross-border transactions amidst the infrastructural vulnerabilities of the 2026 Iran War, Judgment No. 1004/2026 offers critical tactical guidance:

- **Securing Immediate Institutional Evidence:** If data center attacks or wartime cyber measures block a transfer, counterparties must immediately demand formal written explanations from their banks. Official bank documentation explicitly linking the transaction's failure to the infrastructural outage is mandatory for GCC court litigation.
- **Structuring Redundant Payment Channels:** Because courts require proof that payment was impossible by any alternative means, corporate entities should structure transactions with contingency payment mechanisms in mind (e.g., GCC-based escrow facilities, localized credit lines, or secondary banking networks unaffected by specific AWS/cloud outages) to bypass cross-border bottlenecks.
- **Precision in Contract Drafting for Dual-Use Infrastructure:** Standard force majeure clauses often fail to protect against financial delays. Because commercial cloud platforms are increasingly targeted as dual-use military infrastructure due to AI integrations, contracts drafted during the conflict should explicitly define "data center outages," "cloud infrastructure attacks," or "banking network disruptions" as specific trigger events that warrant predefined grace periods, avoiding the draconian legal standard of absolute impossibility.

Takeaway

The technological and infrastructural turbulence generated by the 2026 Iran War cannot be used as a blanket legal shield for failing to meet commercial obligations. Dubai Court of Cassation Judgment No. 1004/2026 firmly establishes that while UAE courts recognize the severe realities of regional conflict, from drone strikes on AWS availability zones to crippled digital banking platforms, they require stringent, localized, and specific evidentiary standards to disrupt the sanctity of a contract. To successfully claim financial force majeure, parties must cross a high evidentiary threshold, transitioning from broad geopolitical and infrastructural arguments to producing highly specific, bank-issued proof of absolute impossibility and the total exhaustion of alternative payment methods.

Wasel & Wasel advises on complex commercial disputes, international arbitration, and cross-border financial litigation within the UAE courts and the broader GCC. The firm represents international contractors, investors, and commercial entities in high-stakes proceedings before the UAE Federal and Emirate-level Courts. Our practice includes navigating force majeure claims, managing multi-jurisdictional financial disputes, and enforcing contractual rights amidst geopolitical and regional crises.

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