Dubai Cassation Court clarifies the limit of permitted extension periods for issuance of awards under the DIAC Arbitration Rules 2007

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In a recent judgment issued in October 2021, the Dubai Cassation Court addressed the permissible number of extensions that may be granted to the time limit for rendering an arbitration award under the DIAC Arbitration Rules 2007 ("DIAC Rules").

DIAC Rules

Article 36 of the DIAC Rules provides that the time limit within which the tribunal must render its final award is six months from the date the sole arbitrator (or the chairman in the case of three arbitrators) receives the file. The tribunal may, on its own initiative, extend the time-limit for up to additional six months. The executive committee may extend this time limit further pursuant to a reasoned request from the tribunal or on its own initiative if it decides that it is necessary to do so.

Case and petitioned motion

The arbitration award subject to set-aside had been rendered

after three extensions took place.

One extension took place by the tribunal, and two subsequent extensions granted by the executive committee.

The petitioned motion before the Dubai Cassation Court requested the nullification of the award based on two limbs. One limb in that the award addressed a subject matter that was outside the scope of the arbitration award.

The second – more notable – limb was that the tribunal had issued the award after three extensions.

The petitioner argued before the Cassation Court that Article 36 of the DIAC Rules limited extensions to only two: one extension by the tribunal and a second extension by the executive committee.

The petitioner also argued that the third extension was not agreed to by the parties.

Cassation Court reasoning

The Dubai Cassation Court applied a textualist approach to its interpretation of Article 36 of the DIAC Rules – particularly Article 36(4) which grants the executive committee authority to extend time limits for the issuance of an award.

The text of Article 36.4 of the DIAC Rules explicitly states:

"The executive committee may extend this time limit further pursuant to a reasoned request from the tribunal or on its own initiative if it decides that it is necessary to do so."

The Court ruled:

"…Article 36(4) never came about the number of times to extend the time limit for arbitration, and the text did not limit the executive committee to one period [of extension], as the plaintiffs' lawyer had argued…it is necessary to take the text

prima facie as long as the legislator was conscious of the text and did not limit it and hence the Court considers that the [third] extension of the time limit from the executive committee of DIAC is consistent with the correct application of the provisions of the law…"

The judgment provides a significant judicial clarification in respect of extension periods under Article 36 of the DIAC Rules that may be granted by the executive committee, and guidance for arbitrators adjudicating disputes under the DIAC rules.

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