# Dubai Cassation Court rejects enforcement of unsigned arbitration award

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In April 2021, the Dubai Cassation Court refused to grant an arbitration award writ of enforcement for violation of public policy on the grounds that the reasoning and decision of the award were not signed by the arbitrator.

**Background**

In 2020, a net-winner of an international / foreign arbitration proceeding submitted the arbitral award to the enforcement circuit of the Dubai Courts with a petition request for its enforcement.

The arbitration award was issued by the China International Economic and Trade Arbitration Commission and adjudicated on by a single arbitrator.

The enforcement judge accepted the request and granted the award writ of enforcement.

The counterparty challenged the enforcement grant before the Dubai Appeals Court on two grounds:

- Violation of Article 16(2) of the Civil Procedures Law Regulations (Dec. no. 57/2018) which require certain information to be included in any statement of claim, and signatures of the claimants or their representatives.
- Lack of valid representation for deficiency in the powers of attorney submitted to the courts for the net

winner of the arbitration award (the enforcing party).

The Appeals Court rejected the appeal and confirmed the validity of the enforcement grant.

In late 2020, the counterparty petitioned the Dubai Cassation Court to overturn the Appeals Court judgment, arguing that the arbitral award had violated Articles 85 and 86 of the Civil Procedures Law Regulations which govern the enforcement of foreign judgments, orders, bonds, and arbitral awards.

The principal argument presented to the Cassation Court was that the arbitral award was not signed – and that the arbitrator had signed a separate document that is 'disconnected' from the award itself.

**Dubai Cassation Court judgment**

The Dubai Cassation Court issued its judgment in April 2021.

The Cassation Court relied on the authorities granted to the UAE courts under Articles V(1) and V(2)(b) of the New York Convention to refuse recognition and enforcement of an arbitral award if it is deemed contrary to public policy of the UAE.

The Court further based its reasoning on Article III of the Convention in ensuring compliance with the rules of procedure of the UAE for recognition and enforcement.

The Court confirmed that in identifying the 'rules of procedure' for the UAE as referenced in the Convention one cannot limit such rules to the Civil Procedures Law (and its regulations) – but consideration must be given to the Federal Arbitration Law as well with respect to rules of procedure respective to arbitration matters.

The Court cited Article 41 of the Federal Arbitration Law in respect of requirements for the arbitration award to be signed by the arbitrator (or arbitrators).

The Court further reasoned that the signature of the arbitrator(s) is the only legal confirmation of their acknowledgement and oversight of the award. Lack thereof would result in the inability to attribute the award to the arbitrator(s).

And in identifying the term ‘award’ for purposes of signing, the Court emphasized the inclusion of the reasoning and the decision.

In other words, for compliance with UAE public policy and to ensure enforcement validity, the reasoning and decision of an arbitration award must be signed by the arbitrator(s).

The Cassation Court also confirmed its acceptance of this novel argument notwithstanding that it had not been raised before the Appeals Court, seeing as it is a matter of public policy.

The Cassation Court overturned the Appeals Court judgment and ordered the refusal of granting the arbitration award writ of enforcement for its violation of public policy on the grounds that it lacked the signature of the arbitrator in its reasoning and decision.

**Significance**

The UAE Courts have previously emphasized the requirement for arbitration awards to include the signature of the arbitrator(s) on the reasoning and decision to ensure validity.

This new judgment is significant as it applies the same public policy conditions under the 2018 Federal Arbitration Law and reconfirms the position of the UAE Courts.

Moreover, it is significant for parties currently litigating arbitral award enforcement proceedings as the Dubai Cassation Court confirms the legality of presenting it with arguments on

lack of signature even where such arguments were not submitted to the Appeals Court.

And most importantly, the judgment reinforces the necessity for foreign parties and UAE parties involved in foreign / international arbitration proceedings, that intend on enforcing the awards in the UAE (or otherwise in some instances) to ensure that the final and certified award complies with the requirements for enforcement in the UAE – including issues of public policy from the perspective of the UAE Courts.

For arbitrators, the judgment signifies the importance of accounting for statutory and case law public policy considerations in the UAE to ensure the sanctity of their awards.

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