War Series: Can War Set Aside an Arbitration Award? Applying the Dubai Cassation Court’s Afghan Precedent to the 2026 Iran War

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Introduction: Procedural Defenses in the Context of Regional Conflict

The 2026 Iran War introduces logistical and administrative challenges for commercial operations across the Middle East. As contracting parties address contract performance and supply chain disruptions in various sectors, disputes are frequently referred to international arbitration in accordance with standard commercial agreements.

In the context of regional instability, a relevant procedural issue arises when a party attempts to challenge the validity of arbitration proceedings or seeks the annulment of a resulting award by citing the conflict. Respondents may argue that wartime disruptions constitute a procedural force majeure, asserting that conditions prevented them from appointing representatives, receiving proper notification, or participating in hearings.

For parties seeking to enforce or defend arbitral awards in Gulf Cooperation Council (GCC) jurisdictions, understanding how local courts evaluate these annulment requests provides necessary context. Dubai Court of Cassation Judgment No. 483 of 2024 (Commercial), issued on February 12, 2025, analyzed an annulment dispute stemming from the 2020 conflict in

Afghanistan, offering legal principles applicable to arbitrations conducted during the 2026 Iran War.

The Factual Matrix: The Afghan Conflict and Annulment Proceedings

The dispute in Dubai Cassation Judgment No. 483/2024 originated from a 2018 contract concerning the Afghan National Airports project. Following the change in government and the outbreak of conflict in Afghanistan in 2020, the claimant initiated arbitration before the Permanent Court of Arbitration (PCA). When the respondent did not appoint an arbitrator within the contractual timeframe, the PCA appointed a sole arbitrator who eventually issued an award.

The respondent subsequently filed an annulment action in the Dubai courts. The respondent argued that the Afghan conflict constituted a force majeure event that prevented the formation of a government, hindered the appointment of authorized legal representatives, and restricted their ability to present a defense. Additionally, they claimed the arbitrator violated due process by sending procedural orders to an unauthorized employee's email address rather than an official representative. Finally, the respondent argued the arbitrator failed to correctly apply the agreed-upon Afghan law, specifically contesting the award of interest, which they asserted was not permitted under that legal framework.

The Court's Ruling: Digital Participation and Procedural Due Process

The Dubai Court of Cassation dismissed the annulment action, establishing that the physical constraints of a regional conflict do not automatically invalidate arbitration proceedings if the party had practical means to participate.

The Court examined the procedural record and observed that, despite the ongoing war, the respondent was aware of the proceedings and engaged with the tribunal. The evidentiary

record demonstrated that the respondent had requested extensions of time, submitted documents, and paid their share of the arbitration advance on costs (amounting to 145,625 AED). Furthermore, representatives for the respondent had appeared before the arbitrator and corresponded via email.

Crucially, the Court noted that the arbitration hearings were conducted via video conferencing technology. The Court concluded that the use of video technology enabled direct participation, and therefore the claims regarding the war did not constitute a sufficient reason for the failure to present a defense.

This precedent indicates that GCC courts review the factual record of a party's engagement. Administrative interactions, such as paying fees, sending email correspondence, or accessing virtual hearings, are weighed against claims that wartime conditions precluded participation.

Scope of Review and the Burden of Proving Foreign Law

The Court also addressed the respondent's claim that the arbitrator misapplied the substantive Afghan law regarding the awarding of interest.

The Dubai Court of Cassation reaffirmed a standard principle of the UAE arbitration framework: an annulment action is a procedural review, not an appeal on the substantive merits. The judiciary's supervisory role does not extend to reassessing the arbitrator's evaluation of evidence or their interpretation of the law.

Furthermore, under UAE evidentiary principles, foreign law is treated as a material fact. The party asserting that a foreign law was misapplied bears the burden of proving its existence and content. Because the respondent alleged that interest was prohibited under Afghan law but failed to submit formal proof that the provisions applied by the arbitrator were invalid or contrary to Afghan law, the Court rejected the argument.

Procedural Considerations for Arbitration in the 2026 Context

For commercial entities and legal practitioners managing arbitrations and subsequent enforcement proceedings during the 2026 Iran War, the Dubai Court of Cassation precedent highlights several practical considerations:

- **Documenting Engagement:** Tribunals and claimants should maintain comprehensive records of interactions with the respondent. Routine administrative actions, such as the payment of institutional fees, email correspondence, or requests for procedural extensions, can serve as evidence of notification and capacity to participate, addressing subsequent annulment claims based on wartime disruption.
- **Utilizing Virtual Proceedings:** Conducting proceedings via video conferencing addresses logistical constraints. As demonstrated in the judgment, the availability of digital hearing options provides an accessible venue and mitigates claims that regional instability prevented a party from presenting their case.
- **Evidentiary Requirements for Foreign Law:** When challenging or defending an award based on the application of a foreign substantive law before GCC courts, parties must adhere to evidentiary standards. Assertions regarding foreign legal principles must be supported by submitting authenticated texts of the relevant foreign legislation to meet the burden of proof.

Conclusion

As regional operations adjust to the logistical challenges of the 2026 Iran War, disputes concerning the validity of arbitration proceedings are evaluated on procedural grounds by local courts. Dubai Court of Cassation Judgment No. 483/2024 demonstrates that GCC courts maintain a defined scope for annulment. The logistical difficulties associated with

regional conflict do not inherently justify a failure to participate, particularly when virtual proceedings are utilized and administrative engagement is documented. For parties enforcing contractual rights, adherence to procedural requirements and evidentiary standards remains standard practice for securing and defending arbitral awards.

Wasel & Wasel advises on commercial disputes, international arbitration, and cross-border award enforcement within the UAE courts and the broader GCC. The firm represents international contractors and commercial entities in proceedings before the UAE Federal and Emirate-level Courts, handling the execution of arbitral awards and advising on annulment actions. Their practice includes advising entities on procedural requirements, managing multi-jurisdictional arbitrations under institutional rules, and addressing jurisdictional matters in international dispute resolution.

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