ABU DHABI COURT OF CASSATION CONFIRMS EXCLUSIVITY OF GROUNDS FOR SET ASIDE OF ARBITRAL AWARDS

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UAE Litigation and Dispute Resolution Alert

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INTRODUCTION

In a decision that became public recently, the Abu Dhabi Court of Cassation (Court of Cassation) in Case No. 1115 of 2024 (issued on 25 November 2024) confirmed the exclusivity of the grounds to set aside arbitral awards contained in Article 53 of the United Arab Emirates (UAE) Federal Arbitration Law No. 6 of 2018 (Arbitration Law). Those grounds do not include reconsideration of the arbitral tribunal's evaluation of the evidence.

BACKGROUND

An award debtor (claimant in the arbitration) filed application No. 16 of 2024 in the Abu Dhabi Court of Appeal (Court of Appeal) seeking to set aside an arbitral award issued in an arbitration under the rules of the Abu Dhabi Commercial and Conciliation Centre (since reorganized and renamed as the Abu Dhabi International Arbitration Centre). The basis for the application was that the arbitral tribunal adopted a different method in assessing the award debtor's claims to that adopted in assessing the award creditor's claims (counter claimant in the arbitration), and the burden-of-proof requirements applied to the award debtor were more onerous than those applied to the award creditor. In its judgment issued on 16 October 2024, the Court of Appeal dismissed the application.

The award debtor filed an appeal to the Court of Cassation, relying upon the same arguments raised before the Court of Appeal.

JUDGMENT OF THE COURT OF CASSATION

The Court of Cassation upheld the Court of Appeal's judgment. It confirmed that it is established that the court hearing an application to set aside an arbitral award shall not be allowed to reconsider the merits of the arbitration case or to supervise the application and interpretation of the law by the arbitral tribunal. The Court of Cassation held that the assessment of evidence in an arbitration proceeding is within the purview of the arbitral tribunal. It is not admissible as a ground for setting aside an arbitral award, as it is not a procedural defect listed in the grounds for setting aside an arbitration award in Article 53 of the Arbitration Law. The Court of Cassation further noted that the validity of arbitral awards in terms of reasoning is not to be measured by the same standards as state court judgments. The Court of Cassation held that the award debtor had not established that it was denied the

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opportunity to present its case by the arbitral tribunal or that there had been any breach of the principles of due process.

COMMENT

The Court of Cassation's judgment reaffirms the UAE courts' supportive position of arbitration, emphasizing the exclusivity of the statutory grounds for setting aside arbitral awards and that those grounds shall be interpreted narrowly.

ABOUT THE FIRM

Our Litigation and Dispute Resolution practice has a long history of acting as counsel on high-stakes international arbitration and litigation mandates. Our lawyers in Dubai have extensive experience advising on litigation and arbitration with respect to complex, high-value disputes in the UAE and wider Middle East region.

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