

The Importance of a complete Arbitral award under UAE law

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In 2011 the Dubai Court of Cassation confirmed that in order for a domestic arbitral award to be enforced, it must contain an operative part (i.e. a section which sufficiently particularises what has been decided and who is to pay what). Without this section the award is incomplete and unenforceable.

The Court of Cassation Decision

In Real Estate Appeal No. 315 of 2011, the Dubai Court of Cassation confirmed a Court of Appeal decision to overturn the affirmation by the Court of First Instance of a domestic arbitration award. The Court of Appeal found that the Court of First Instance overlooked serious defects in the award, particularly the fact that the award did not include an operative part. The type of arbitration involved meant it was not possible for the Tribunal, having issued the Final Award, to explain or revise the award to include the operative part.

In its decision, the Dubai Court of Cassation detailed in what circumstances it would be possible for a tribunal to explain the effect of the Final Award once it has been issued.

1. Arbitration conducted through Court

If the arbitration is conducted through court under the UAE Civil Procedure Law (which is rare), it is possible for the local court to refer the case back to the arbitrators to reconsider any issues which they have omitted or to clarify the award if it is not particularised to the extent necessary for enforcement. Unless otherwise decided by the court, the arbitrators shall, in both cases, issue their decision within three months of the date on which they are notified of the court's decision. This is pursuant to Article 214 of the UAE Civil Procedure Law.

2. Institutional Arbitration

Arbitration institutions may, on their own initiative, correct mathematical, clerical, or typographical errors in arbitral awards. As regards the interpretation of arbitral awards, the rules of many arbitration institutions only allow this in certain circumstances, and usually only within 30 days of the award being issued (e.g. article 38 of the Dubai International Arbitration Centre Rules). Institutional rules do not generally allow Tribunals an unfettered power to amend or interpret their awards, for fear that this will be misused and lead to the dispute being reconsidered (contrary to the doctrine of *res judicata*).

3. Ad Hoc Arbitration

Unless otherwise agreed by the parties, in an ad hoc (i.e. non-institutional) arbitration the arbitrator cannot be asked to clarify or interpret his award.

The arbitration that gave rise to the award being considered by the Court of First Instance was an ad hoc

arbitration. The Cassation Court held that since the parties had not agreed to grant a power to the Tribunal to interpret the award, and since no power was granted under UAE law, the Court of Appeal correctly found that the award did not meet the requirements for a valid award and this could not be cured. In the award the arbitrator had not detailed what the decision was, but had instead left it up to the parties to negotiate terms and to refer the matter back to the Tribunal if there was no agreement. The arbitral award was therefore ambiguous and lacking a dispositive part that could be enforced.

Practice note:

The decision by the Court of Cassation is helpful because it clearly explains that whether a Tribunal has the ability to clarify an ambiguous or defective award depends on whether it is a court-administered arbitration, institutional or ad hoc. The Court's approach is consistent with UAE law and helpfully reminds practitioners that there are real differences between the three types of arbitration.

If the parties agree to arbitration in the UAE without using an institution, they should consider agreeing a clause to grant power to the tribunal to amend and clarify an award within a certain period following the issuance of the final award. A possible wording would be 'The Tribunal has the power to correct and interpret the final award within 30 days of it being issued'.

For legal assistance with your arbitrary needs, get in touch with our [arbitration lawyers in UAE](#).

Also read: [Types of Arbitration agreements in UAE](#)