

CONFLICT IN THE MIDDLE EAST: RIGHTS AND REMEDIES UNDER THE LAWS OF THE UNITED ARAB EMIRATES (UAE)

Date: 17 March 2026

UAE Litigation and Dispute Resolution Alert

By: Jennifer Paterson, Mohammad Rwashdeh

INTRODUCTION

As regional conflict causes disruption to commercial activity, this article considers the enforceability of contractual force majeure provisions and the availability of relief for events of force majeure and loss resulting from extraneous causes under UAE law.

ENFORCEABILITY OF CONTRACTUAL FORCE MAJEURE PROVISIONS

Under UAE law, contracting parties are generally free to agree on the contractual terms that will govern their relationship provided they do not conflict with a mandatory provision of UAE law or contravene public order or morals.

The concept of force majeure is recognised and judicially well-understood in the UAE, and force majeure provisions are commonly included in commercial contracts in the region. Express force majeure provisions in contracts governed by UAE law will generally be enforceable. Similarly, contractual notice requirements that must be satisfied before force majeure can be relied on will usually be upheld.

APPLICABLE PROVISIONS OF UAE LAW

In the absence of (or supplementing) express contractual force majeure provisions, Federal Law No. 5 of 1985 on the Civil Transactions Law (Civil Code) contains several articles that provide for relief in the case of force majeure and other exceptional circumstances.

Although the Civil Code refers to “force majeure” and “exceptional circumstances” as the basis for relief from performance of contractual obligations, it does not provide any definition of what constitutes force majeure or exceptional circumstances. The starting point for any such analysis is the contract in question and, in particular, whether there are any definitions that encompass conflict (such as war, hostilities, government restrictions, or disruptions to transport). If the contract is silent or unclear, then it will be for the court or arbitral tribunal to determine whether the existence and effects of the conflict constitute force majeure or exceptional circumstances in the context of the Civil Code. Each concept is considered in further detail below.

Unlike in the common law jurisdictions, where force majeure may result in the suspension of contractual obligations, the default consequence of establishing force majeure that renders the performance of the obligation partially or wholly impossible under UAE law is that the contract is partially or wholly terminated, as applicable. The termination of the contract renders the contract void *ab initio*.

Article 273(1) of the Civil Code provides that if a force majeure event supervenes that renders performance of a contract impossible, all contractual obligations will cease and the contract will be automatically terminated.

Under Article 273(2) of the Civil Code, if the force majeure event renders part of the obligations impossible to perform, only that part of the contract will be extinguished and the remainder will continue in effect. In such cases, the obligor, in respect of the partially impossible obligation, is permitted to terminate the entire contract on giving notice to the obligee.

The requirement to establish impossibility of performance is a high threshold; mere difficulty, delay or the increased cost in the performance is insufficient.

Although Article 273 of the Civil Code does not require notice (as the contract is wholly or partially terminated automatically by operation of the law), a party seeking to rely upon this provision may still be required to provide notice of the termination to its counterparty, to avoid any allegation of breach of the general obligation under Article 246 of the Civil Code to perform the contract consistent with the requirements of good faith.

If a contract is terminated under either Article 273(1) or 273(2) of the Civil Code, the parties are to be restored to the position they were in before they entered into the contract; if that is not possible, damages may be awarded by a court (or arbitral tribunal) by way of compensation to a party that has suffered a loss as a result of the inability to unwind the contract.

Where a party is unable to perform its contractual obligations as a direct result of external events beyond its control, it may also rely upon Article 287 of the Civil Code as a defence to any claim against it for damages for nonperformance. Article 287 of the Civil Code provides that if a person can prove that a loss arose out of an extraneous cause in which it played no part, such as a natural disaster, unforeseen circumstances, force majeure, the act of a third party or the act of the person that has suffered the loss, it will not be liable to make good the loss.

Further, if a party cannot meet the high threshold of impossibility of performance required by Article 273 of the Civil Code, but the contract is no longer economically viable, it may seek relief under Article 249 of the Civil Code. Article 249 of the Civil Code provides that if exceptional circumstances of a public nature that could not have been foreseen occur, as a result of which performance of a contract becomes oppressive for a party, but not necessarily impossible, the judge (or arbitral tribunal) has discretion, after weighing the interests of each party, to reduce the obligation to a reasonable level if justice requires it. Unlike the provisions that concern force majeure, Article 249 of the Civil Code does not result in the termination of the contract, but rather, the rebalancing of contractual obligations in the interests of fairness. The court (or arbitral tribunal) has broad discretion to adjust the parties' obligations, such as reducing prices or extending timelines.

Recent judgments from the UAE Courts of Cassation provide some guidance as to the applicability of force majeure to the present conflict. In Dubai Court of Cassation Commercial Case No. 1 of 2024, the Dubai Court of Cassation held that the outbreak of war between Russia and Ukraine was a force majeure event that prevented the defendants' performance of their obligations. The Dubai Court of Cassation specifically found that the war was

unforeseeable at the time of contracting and could not be prevented, nor could its consequences be avoided. Therefore, the defendants were not in breach of their contractual obligations.

CONCLUSION

Contracting parties facing delay, nonperformance and the increased costs of performance as a result of the regional conflict should carefully review contractual language to identify any applicable force majeure provisions and ensure timely compliance with any notice requirements. They should also assess whether the circumstances amount to force majeure under the Civil Code or constitute unforeseen, exceptional public circumstances rendering performance extremely onerous for one party, in order to establish what relief may be available.

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 the wider Middle East region.

KEY CONTACTS



JENNIFER PATERSON
PARTNER

DUBAI
+971.4.427.2728
JENNIFER.PATERSON@KLGATES.COM



MOHAMMAD RWASHDEH
SPECIAL COUNSEL

DUBAI
+971.4.427.2742
MOHAMMAD.RWASHDEH@KLGATES.COM

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.