

JUDICIAL TRIBUNAL DECISIONS – KEY TAKEAWAYS

Issues related to conflicts of jurisdiction between the DIFC Courts and the onshore Dubai Courts continue to remain a hotly contested point and one that is often deployed by parties as part of their case strategy. The conflict usually arises as a result of parallel proceedings commenced in both the DIFC Courts and the onshore Dubai Courts – where typically the party opposing the jurisdiction of one court would commence parallel proceedings in the other court.

The Judicial Tribunal (the Tribunal) was established in 2016 by Dubai Decree No.19 of 2016 to be the final arbiter of such conflicts of jurisdiction between the DIFC Courts and the onshore Dubai Courts. A referral of an actual conflict of jurisdiction to the Tribunal results in an automatic stay of proceedings in both the DIFC Courts and the onshore Dubai Courts until the Tribunal issues its decision as to which of the two courts has jurisdiction.

Now in its fifth year, the Tribunal's jurisprudence continues to provide some clear trends that parties should be mindful of both (a) when drafting their jurisdiction clauses and (b) when considering the overall strategy in a litigation.

This briefing is the third in our series of briefings on the Tribunal, the other two being (a) [Further development of the Judicial Tribunal jurisprudence \(September 2019\)](#); and (b) [The Judicial Tribunal Decisions - Emerging Trends \(December 2018\)](#)

In this briefing, we discuss the key takeaways from the Tribunal's decisions since September 2019¹. A concise summary of the Tribunal's decisions (with new cases in blue) can be accessed below.

Key issues

- The Tribunal has issued a further twelve decisions since September 2019.
- In relation to DIFC seated arbitrations, the Tribunal has found that DIFC Courts generally have jurisdiction.
- In relation to enforcement of foreign arbitral awards or foreign court judgments, DIFC Courts have jurisdiction to enforce them in DIFC.
- The conduit jurisdiction of the DIFC Courts to enforce foreign judgments/awards in onshore Dubai has continued to decline.
- The Tribunal will uphold express "opt-in" or "opt-out" of the DIFC Court's jurisdiction.
- The Tribunal may also consider issues such as "*proper functioning of justice*." when determining which court has jurisdiction.

¹ We understand that there was a slight lag in the publication of the Tribunal's decisions due to the global pandemic. As a result, decisions on referrals from 2020 were published in 2021, all of which serve to build upon the Tribunal's existing jurisprudence



The Tribunal's decisions to date can be categorised into the following scenarios:

(A) Enforcement of Domestic and Foreign Arbitral Awards

In recent cases, the Tribunal's decisions have generally been in line with established arbitration principles which are:

- (a) the court at the seat of arbitration is the competent body to determine disputes relating to the validity of an award (e.g. DIFC Courts have jurisdiction to decide disputes relating to the validity of a DIFC seated arbitral award); and
- (b) parties are free to seek enforcement of the award before either court. Where enforcement was against assets within the jurisdiction of each court there would generally be no conflict.

As for whether the DIFC Court can be used as a conduit to enforce a foreign arbitral award in onshore Dubai, the decisions have not dealt expressly with this point. However, it is likely to be the case that the DIFC Courts cannot be used as a conduit jurisdiction to enforce a foreign arbitral award in onshore Dubai – provided there is a valid conflict of jurisdiction.

(B) Enforcement of Foreign Court Judgments

The Tribunal's decisions in this category have found that the DIFC Courts have jurisdiction to order interim measures in support of foreign court judgments and enforce foreign court judgments within the DIFC. However, enforcing a foreign court judgment in onshore Dubai using the DIFC Courts as a conduit may not be allowed.

(C) Where a Licensed DIFC Establishment is involved in the dispute

The Tribunal's decisions are in line with the Judicial Authority Law and found that the DIFC Courts have exclusive jurisdiction where the dispute involved a Licensed DIFC Establishment or where performance of the contract took place in the DIFC.

(D) Jurisdiction Clause Issues

The Tribunal's decisions have found that where the jurisdiction clause expressly and clearly was an "opt-in" to the DIFC Courts' jurisdiction, the DIFC Courts have exclusive jurisdiction. However, if there is any ambiguity in the wording of the clause (e.g. where a clause provides recourse to both courts "*as appropriate*") or where the clause expressly excludes the DIFC Courts, the Dubai Courts would have general jurisdiction to hear the dispute. In the absence of a jurisdiction clause or where there are related agreements with different jurisdiction clauses, the Tribunal would investigate the facts to determine which court had jurisdiction.

(E) Dubai Courts issuing interim measures in support of DIFC Court proceedings

The Tribunal held that the DIFC Court had jurisdiction to determine the dispute and the reasoning turned on there being no conflict of jurisdiction.

The above decisions reinforce the importance of accurately drafting jurisdiction clauses to reflect the parties' chosen forum and exclude other forums. The decisions also arguably provide greater clarity on the routes to enforce arbitral awards and foreign court judgments which will assist parties both in choosing the dispute resolution forum in their contracts and in their case strategy when proceedings commence.

SUMMARY OF TRIBUNAL DECISIONS

No.	Type of Conflict	Tribunal's Decision & Comment
(A) Conflicts relating to enforcement of Domestic and Foreign Arbitral Awards		
<i>Dubai Seated Arbitral Awards</i>		
1.	<p>Dubai seated arbitral awards – DIFC Courts recognised the arbitral award but award debtor sought to annul the award before onshore Dubai Courts.</p> <p>(Cassation No.1/2016 - <i>Daman Real Capital Partners Company LLC v Oger Dubai LLC</i>; Cassation No.2/2016 - <i>Dubai Water Front LLC v Chenshan Liu</i> and Cassation No.3/2017 - <i>Ramadan Mousa Mishmish v Sweet Homes Real Estate LLC</i>.)</p>	<p><i>Dubai Courts have jurisdiction to the exclusion of DIFC Courts.</i></p> <p>A minority comprising the DIFC Court judges dissented, noting that both courts had jurisdiction. DIFC Courts have exclusive jurisdiction to recognise and enforce an arbitral award within the DIFC, which is distinct from annulment of an arbitral award for which the Dubai Courts have exclusive jurisdiction as the supervisory courts of the arbitral seat.</p> <p>As set out in item 2 below, there may be an exception to the general rule where the parties have selected DIFC-LCIA Rules.</p>
2.	<p>Dubai seated arbitral award rendered under DIFC-LCIA Rules – The award creditor commenced enforcement proceedings in the DIFC Court while the award debtor applied to the Dubai Courts to annul the award.</p> <p>(Cassation No.1/2018 - <i>Sindbad-Marine-Inc.-LLC-v-Essam-Al-Tamimi</i>.)</p>	<p><i>DIFC Courts have jurisdiction to enforce and recognise the award.</i></p> <p>This decision deviates from the line of cases noted at item 1 above (i.e., in the sense that the selection of the DIFC-LCIA Rules seemed to trump the selection of a Dubai seat). Both the majority and minority decisions confirmed the DIFC Courts had jurisdiction but differed in their reasoning. The majority decision was premised on the fact that the DIFC-LCIA is based in the DIFC. The minority opinion disagreed with this reasoning, but their reasons are yet to be published. It will be interesting to see if the Judicial Tribunal continues to apply the majority reasoning in future cases.</p>
<i>DIFC-LCIA Award / DIFC Seated Arbitral Awards</i>		
3.	<p>DIFC- LCIA award – Award creditor sought recognition and enforcement of the award before the DIFC Courts. The award debtor disputed the DIFC Courts jurisdiction and had applied for nullification of the awards from the Dubai Courts.</p> <p>(Cassation No. 8/2019 – <i>Al Taena AF Construction Company LLC v Power Transmission Gulf</i>)</p>	<p><i>DIFC Courts have jurisdiction to ratify and enforce the award</i></p> <p>The DIFC Courts are the supervising courts per the DIFC-LCIA arbitration rules which the parties agreed upon. The fact that the arbitration was physically conducted outside the DIFC (in onshore Dubai) does not affect the DIFC Court’s jurisdiction.</p>
4.	<p>DIFC seated arbitral award - A dispute arose regarding the jurisdiction of the onshore Dubai Courts and the DIFC Court where:</p>	<p><i>DIFC Courts and not the Dubai Courts have jurisdiction to hear applications regarding the validity of DIFC seated awards.</i></p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<p>1. The arbitration clause provided for disputes to be settled in accordance with the arbitration rules of the DIFC-LCIA and place of arbitration as DIFC;</p> <p>2. The parties participated in such a DIFC seated arbitration and the DIFC Court recognised the arbitration award; and</p> <p>3. The applicant to the Tribunal then applied to the onshore Dubai Courts to release them from payment of the amounts ordered to be paid by the DIFC Court, on the grounds that the sums claimed by the respondents were a result of coercion, deception and unfairness.</p> <p><i>(Cassation No. 11 of 2020 – (1) AUH Properties LLC (2) Hospitality Management Limits v (1) The Ritz Carlton Hotels Company Limited (2) Global Hospitality Licensing S.A.R.L)</i></p>	<p>The Tribunal upheld the respondent's argument that:</p> <ol style="list-style-type: none"> Under Article 41 of the DIFC Arbitration Law No.1 of 2008, recourse against an award made in an arbitration seated in the DIFC must be made to the DIFC Court. Therefore, it was for the DIFC Court and not the onshore Dubai Courts to determine any challenge to the validity of the award founded on a claim that the arbitration clauses are ineffective.
5.	<p>DIFC seated arbitral award - a dispute had arisen in relation to the enforceability of an arbitral award made under the DIFC-LCIA Rules and recognised by the DIFC Courts (being the courts of the seat of arbitration). The losing party sought to annul the DIFC seated arbitral award before the onshore Dubai Courts on the basis of arguments around lack of authority to enter into the arbitration agreement. The Dubai Court of Appeal dismissed the application on the basis that it is the DIFC Courts who have jurisdiction over the matter. <i>(Cassation No. 5/2020 – Luxury Development LLC v Multiplex Constructions LLC)</i></p>	<p><i>DIFC Courts and not the Dubai Courts have jurisdiction to hear applications regarding the validity of DIFC seated awards.</i></p> <p>Although by the time of the Tribunal's decision there was no conflict of jurisdiction (as the Dubai Court of Appeal had dismissed the nullification application) the Tribunal's reasoning was the same as that noted in the case above.</p>
6.	<p>DIFC seated arbitral award – Award creditor sought recognition and enforcement of the award from both DIFC Courts and onshore Dubai Courts. The DIFC Court of First Instance refused to set aside the award which decision was not appealed.</p> <p><i>(Cassation No.6/2017 - Assas Investments Limited v Fius Capital Limited.)</i></p>	<p><i>DIFC Courts and Dubai Courts have jurisdiction to enforce the award</i></p> <p>There was held to be no conflict in this case as the parallel enforcement proceedings were in respect of different assets and therefore both courts had jurisdiction in the respective proceedings. The Tribunal confirmed that parties can pursue enforcement of arbitration awards simultaneously in multiple jurisdictions (including DIFC and Dubai) and this is unlikely to result in a conflict of jurisdiction.</p>
7.	<p>Arbitration in accordance with ICC rules – The agreement provided that disputes shall be</p>	<p>The DIFC Courts and not the Dubai Courts have jurisdiction over challenges to the arbitrator's award.</p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<p>subject to arbitration in accordance with the rules of the ICC Center.</p> <p>The ICC accepted the request for arbitration and designated the DIFC as the place of arbitration in accordance with Article (18/1) of the ICC Rules. Following this, the arbitrator issued a judgment regarding his competence to hear the disputes between the parties.. The appellant then filed a request to both (i) the onshore Dubai Courts and (ii) the Dubai International Financial Center Court, to annul the arbitrator's judgement.</p> <p><i>(Cassation No. 7/2020 - International Specialized Verification Services Company v Dataflow Verification Services (Hong Kong) Ltd.)</i></p>	<p>The Tribunal noted that under the UAE Arbitration Law, the onshore Dubai Court only had jurisdiction:</p> <ol style="list-style-type: none"> 1. Where there is an agreement between the parties to the dispute to assign the jurisdiction to it; or 2. If the arbitration takes place within its jurisdiction. <p>Neither of these two conditions applied in this case and therefore the DIFC Courts were the competent courts to hear the case.</p>
Foreign Seated Arbitral Awards		
8.	<p>Foreign seated arbitral award – Award creditor sought recognition of foreign award from DIFC Courts, but debtor commenced proceedings before the Amicable Settlement of Disputes Centre of the Dubai Courts</p> <p><i>(Cassation No.1/2017 - Gulf Navigation Holding P.S.C v Jinhai Heavy Industry Co. Limited)</i></p>	<p><i>Dubai Courts have jurisdiction to the exclusion of the DIFC Courts.</i></p>
9.	<p>Foreign seated arbitral award –</p> <p>The case involved the enforcement of a New York seated arbitral award. The DIFC Court had (a) recognised the arbitral award and (b) issued a freezing order relating to the amount of such order. The Appellant filed proceedings before the onshore Dubai Courts seeking annulment of the underlying contracts giving rise to the dispute.</p> <p><i>(Cassation No. 8/2020 - Al-Ghaith Holding Co. PJS v (1) Cessna Finance Est. (Cessna Finance Corporation); (2) Seven Investments Est. (Seven Ventures LLC))</i></p>	<p><i>DIFC Courts have jurisdiction to recognise and enforce the foreign arbitral award.</i></p> <p>This case was different from the above case in that:</p> <ol style="list-style-type: none"> a. The Tribunal found there to be no conflict of jurisdiction where the proceedings before the DIFC Court (enforcement of arbitral award) were completely different to those before the onshore Dubai Courts (annulment of contract). b. The Tribunal also noted that, pursuant to the New York Convention for the recognition of foreign arbitration awards (to which the UAE acceded through Decree No.43 of 2006), the DIFC Courts had jurisdiction to recognise the foreign seated award. An award creditor can seek to enforce the arbitral award in any jurisdiction and doing so in more than one jurisdiction does not give rise to a conflict.

No.	Type of Conflict	Tribunal's Decision & Comment
(B) Conflicts relating to enforcement of Foreign Court Judgments		
10.	<p>Judgment creditor sought recognition of foreign court judgment from DIFC Courts who recognised it, but debtor commenced parallel proceedings in the onshore Dubai Courts claiming that Dubai Courts have exclusive jurisdiction</p> <p>(Cassation No. 4/2017 - <i>Endofa DMCC v D'Amico Shipping</i> and Cassation No.3/2018 - <i>Farkehad Teimar Bely Akhmedov v (1) Tatiana Mikhailovna Akhmedova (2) Straight Establishment</i>)</p>	<p><i>Dubai Courts have jurisdiction to the exclusion of the DIFC Courts.</i></p> <p>In Cassation 4 of 2017, the majority comprising the Dubai Court judges noted that:</p> <p>(a) The timing of parallel proceedings was irrelevant so long as both proceedings were commenced before the Tribunal issued its decision. A party could therefore start a claim in the Dubai Courts quite late and still be able to refer the conflict to the Tribunal.</p> <p>(b) Any concession to a court's jurisdiction must be express and in writing. An appearance before the DIFC Court stating that a party intends to defend all the claims is not a concession.</p>
11.	<p>Judgment creditor sought to enforce judgment of Singapore Courts in the DIFC. Judgment debtor challenged jurisdiction of the DIFC within the DIFC Court proceedings and also commenced parallel proceedings in Dubai Courts to set aside the Singapore judgment.</p> <p>(Cassation No.5/2019 – <i>Essar Properties Limited v McConnell Dowell South East Asia Pte Limited</i>)</p>	<p><i>DIFC Courts had jurisdiction on these facts.</i></p> <p>The Tribunal held that the appellant's actions (delay, tactical applications such as previously insisting on service of the Singapore proceedings through diplomatic channels) indicated a clear desire to abuse the JT process which would not be tolerated.</p> <p>On the facts, it was premature to conclude that there was a conflict of jurisdiction as the DIFC Court had not yet ruled on the appellants challenge and therefore the jurisdiction of the Tribunal was not engaged.</p> <p>In any event, the Tribunal found that the Dubai Courts could not be said to have a general jurisdiction which took precedence over the DIFC Court since the underlying agreement was governed by Singaporean law and contemplated non-exclusive jurisdiction of Singaporean Courts and due to there being a Memorandum of Understanding between the Singapore Supreme Court and the DIFC Court which sets out the requirements for mutual recognition of each court's judgments.</p>
12.	<p>Judgment creditor obtained a judgment from the Cypriot Courts and also obtained a freezing injunction from the DIFC Courts against the Appellant on the basis of the judgment of the Cyprus Courts. The Appellant commenced substantive proceedings before the onshore Dubai Courts seeking declaratory relief in relation to the underlying contracts and an order</p>	<p><i>The DIFC Courts have jurisdiction to issue the freezing injunction.</i></p> <p>The Tribunal noted that there was no conflict of jurisdiction as the DIFC Courts were entitled to issue the freezing injunction which was a temporary order and the Dubai Courts could still consider the substantive claim filed before them.</p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<p>that the DIFC Courts should cease to hear the dispute.</p> <p><i>(Cassation No 11 of 2019 – Mehlaala Borussia v Oksana Childesco)</i></p>	
(C) Conflicts where a Licensed DIFC Establishment is involved in the dispute		
13.	<p>Where a DIFC Establishment is involved – The DIFC Courts found they had exclusive jurisdiction over a case involving a DIFC Establishment. The other party commenced proceedings against the DIFC Establishment before the Dubai Courts.</p> <p><i>(Cassation No.2/2018 - Re-Point-Ventures-FZ-Co (1) Jai-Narain-Gupta (2) Mayur-Kumar-Gupta (3) Saroj-Gupta-V-Tavira-Securities-Limited (4) Saroj-Gupta v Tavira-Securities-Limited and Cassation Nos.3 and 4/2019 Ahmed Mohamed Ramadan Al Rafii v (1) Commercial Bank of Dubai, (2) Totura Restaurant and Rest (LLC), (3) Sheikh Rania Hamad Mubarak Hamad Al Khalifa and (4) Ali bin Abdullah bin Ali Seidani and Sheikh Rania Hamad Mubarak Hamad Al Khalifa v Commercial Bank of Dubai)</i></p>	<p><i>DIFC Courts have exclusive jurisdiction.</i></p> <p>The Tribunal held that the DIFC Courts have exclusive jurisdiction where one of the parties is a Licensed DIFC Establishment, even if the claim arose from events which occurred before it had been registered in the DIFC.</p> <p>In Cassation Nos. 3 and 4/2019 it was confirmed that the DIFC Courts had exclusive jurisdiction over disputes arising from a loan agreement and a related guarantee (that was specific to the loan) given the interconnection of the two agreements, where the borrower was a Licensed DIFC Establishment and relevant activities had taken place within the DIFC.</p> <p>In Cassation Nos.3 and 4/2019 it was confirmed that the DIFC Courts had exclusive jurisdiction over disputes arising from a loan agreement and a related guarantee (that was specific to the loan) given the interconnection of the two agreements, where the borrower was a Licensed DIFC Establishment and relevant activities had taken place within the DIFC.</p>
14.	<p>Performance of obligations in DIFC (Gateway B) – Bank disputed DIFC Court's jurisdiction and commenced parallel proceedings in Dubai Courts following ex-parte worldwide freezing order issued by DIFC Courts affecting money held by the bank.</p> <p><i>(Cassation No 5 of 2018 – National Bank of Kuwait S.A.K.P v (1) SBM Bank (Mauritius) LTD (2) Renish Petrochem FZE (3) Hiteshkumar Chinubhai Mehta (4) Prime Energy FZE)</i></p>	<p><i>DIFC Courts have jurisdiction and not Dubai Courts.</i></p> <p>The Tribunal held that the DIFC Courts had already issued a judgment which had been enforced in the Dubai Courts and the bank would not suffer any prejudice by complying with the DIFC Court order than it would suffer under an equivalent Dubai Court order.</p>
(D) Conflicts arising from jurisdiction clauses		
No express jurisdiction clause		
15.	<p>Negotiations in DIFC - The agreement concluded between the parties contained no express jurisdiction clause but the respondent party argued that the DIFC Courts should have jurisdiction since negotiations of the relevant</p>	<p>The Tribunal held on the fact that the Dubai Courts have jurisdiction. The agreement in question contained no jurisdiction clause and a subsequent related agreement between the parties expressly</p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<p>agreement took place "in the vicinity of the DIFC".</p> <p>(Cassation No.2/2019 - <i>Tabarak Investment LLC v (1) Khaldoon Rashid Al Tabri and (2) Zeina Khaldoun Al Tambre</i>)</p>	<p>provided for the Dubai Courts' jurisdiction "in any dispute connected or related " to it.</p> <p>It was also noted in this case that the party asserting the DIFC Courts' jurisdiction had failed to challenge the Dubai Courts' jurisdiction. There may therefore be an increased risk of the Judicial Tribunal finding that such a party has submitted to that court's jurisdiction where a party fails to challenge the relevant Court's jurisdiction at every step</p>
Express "Opt-In" to the DIFC Courts jurisdiction		
16.	<p>A dispute had arisen in relation to an agreement which contained an express opt-in clause providing for the exclusive jurisdiction of the DIFC Courts.</p> <p>(Cassation No.1/2019 - <i>Oman Insurance Company PS) v Globemed Gulf Healthcare Solutions L.L.C.</i>)</p>	<p>The DIFC Courts have jurisdiction.</p> <p>The Tribunal noted that the appellant had expressly conceded to the DIFC Courts' jurisdiction through its entry into the agreement containing the jurisdiction clause and should be bound by the concession. The Tribunal also remarked on the appellant's failure to challenge the DIFC Courts' jurisdiction through the mechanism provided for in the DIFC Court rules.</p>
17.	<p>A dispute had arisen in relation to an agreement which contained an express opt-in clause providing for the exclusive jurisdiction of the DIFC Courts.</p> <p>(Cassation No.1/2019 - <i>Oman Insurance Company PS) v Globemed Gulf Healthcare Solutions L.L.C.</i>); (Cassation No.7/2019 <i>Anand Narain Kapoor v Barclays Bank PLC</i>) ; (Cassation No. 9/2019 (1) <i>Rouge LLC (2) Claude Barrett v Bessin Spilay Corporation</i>)</p>	<p>The DIFC Courts have jurisdiction.</p> <p>The Tribunal held that the appellant had expressly conceded to the DIFC Courts' jurisdiction through its entry into the agreement containing the jurisdiction clause and should be bound by the concession. The appellant failed to challenge the DIFC Courts' jurisdiction through the mechanism provided for in the DIFC Court rules.</p>
18.	<p>The DIFC Court case concerned payments due under various agreements (which had opt-in clauses to the DIFC Court's jurisdiction) between the parties (the "Primary Dispute"), and a parallel case filed in the Dubai Court concerned a secondary issue – whether the signatures to the agreements had been forged (the "Secondary Issue"). Both courts had not issued any express judgement or decisions as to whether they should retain jurisdiction. There was therefore a conflict of jurisdiction.</p> <p>(Cassation No. 14 of 2020 (1) <i>Infinite Partners Investment LLC (2) Saeed Mohammed bin Butti bin Mohammed Khalfan Al Qubaisi (3) Khalifa Butti Omair Yousef Al Muhairi (4) Freshly Foods Bakery LLC (5) Freshly Frozen Foods Factory LLC (6) Senora Foods LLC (7) Senora Quality</i>)</p>	<p>The DIFC Court had jurisdiction to hear both the Primary Dispute and the Secondary Issue.</p> <p>The Tribunal noted that in accordance with the Judicial Authority Law, the DIFC Courts had jurisdiction to examine the entire dispute including the argument of forgery. Moreover, in order to fulfil the "<i>requirements of the proper functioning of justice</i>" the court that examined the Primary Dispute should also examine the Secondary Issue.</p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<i>General Trading LLC v Mashreq Bank a Public Shareholding Company</i>	
Express "Opt-out" of the DIFC Courts jurisdiction		
19.	<p>A conflict of jurisdiction had arisen whereby the parties to an agreement had filed parallel proceedings in both the DIFC Court and the onshore Dubai Courts. The agreement in dispute had the following jurisdiction clause:</p> <p><i>"Any dispute arising out of the formation, performance, interpretation or cancellation or termination of the present agreement or arising from it or in relation to it in any way whatsoever shall be referred to the Dubai Courts with the exception of the DIFC Courts."</i></p> <p><i>(Cassation No. 13/2020 - Five Hotel FZC v Katria Food Catering Services LLC)</i></p>	<p>The onshore Dubai Courts had jurisdiction over the claim.</p> <p>The Tribunal noted Article (5) (2) of the Judicial Authority Law which permits parties to expressly agree that the DIFC Courts would have jurisdiction. However, when considered with the jurisdiction clause in dispute, the Tribunal found that the parties had expressly agreed to submit to the jurisdiction of the onshore Dubai Courts and expressly opted out of the DIFC Courts' jurisdiction.</p>
20.	<p>A dispute had arisen as to whether the onshore Dubai Courts or the DIFC Courts had jurisdiction where:</p> <ol style="list-style-type: none"> The jurisdiction clause in the agreement stated that the onshore Dubai Courts had jurisdiction, excluding the DIFC Court; Separate cases were issued by the parties in both the onshore Dubai Courts and the DIFC Courts; and The respondent's agent – who filed the case in the onshore Dubai Courts and issued a letter of demand - was based in the DIFC. <p><i>(Cassation No. 12/2020 – (1) Five Jumeirah Village Hotel LLC (2) Unlimited Limited v Cateriya Catering Services LLC)</i></p>	<p>The onshore Dubai Courts had jurisdiction over the claim.</p> <p>The Tribunal held that the onshore Dubai Courts had jurisdiction to the exclusion of the DIFC Court, as this was <i>"very clear"</i> in the agreement between the parties that they wished to refer disputes to the onshore Dubai Courts and exclude the jurisdiction of the DIFC Court.</p> <p>The location of the respondent's agent was not enough to confer jurisdiction to the DIFC Court.</p>
Jurisdiction clause opting for either DIFC Courts or Dubai Courts		
21.	<p>A dispute had arisen in relation to an agreement which contained the following jurisdiction clause</p> <p><i>"The services contract is subject to the laws of the United Arab Emirates and the laws of the Dubai Financial Center as appropriate. All disputes arising out of or under the Service Contract are subject to the exclusive jurisdiction of the courts of the United Arab Emirates or the</i></p>	<p>The onshore Dubai Courts have jurisdiction over the dispute.</p> <p>The Tribunal noted that the jurisdiction clause and, in particular, the words <i>"as appropriate"</i> prevented the clause being a sufficiently clear and explicit opt-in clause to the DIFC Courts' jurisdiction and therefore did not exclude the onshore Dubai Courts jurisdiction. It was not appropriate for both courts to consider the dispute and the onshore Dubai Courts</p>

No.	Type of Conflict	Tribunal's Decision & Comment
	<p><i>courts in the Dubai International Financial Center as required."</i></p> <p>The Respondent (a foreign entity) filed proceedings in the DIFC Courts against the Applicant (an entity incorporated in onshore Dubai) and the Applicant filed proceedings before the onshore Dubai Courts noting that the contract was signed in onshore Dubai and contract was also performed from outside the DIFC.</p> <p>(Cassation No. 1/2020 - <i>KPMG Lower Gulf Limited v Abraaj General Partner VIII Limited</i>) & (Cassation No. 10/20219 (Judicial Tribunal) - <i>KPMG Lower Gulf Limited v IGCF General Partner Limited</i>)</p>	<p>as the holder of general jurisdiction was the competent court to hear the case.</p> <p>The Tribunal also noted that:</p> <p>(1) although an investigation was being carried out by the Dubai Financial Services Authority into matters surrounding a dispute between the parties, neither party was based in the DIFC and the investigation did not lead to any legal action against the parties; and</p> <p>(2) the accounting audit work is not related to activities of the Financial Centre, either of which might attract the jurisdiction of the DIFC Courts.</p>
<p><i>The original agreement stipulates DIFC arbitration and a novation agreement stipulates Dubai Courts</i></p>		
<p>22.</p>	<p>A subcontract agreement stipulated that disputes should be subject to arbitration in accordance with the DIFC-LCIA Rules with the DIFC as the seat of arbitration. The subcontract agreement was novated to the Respondent and disputes arising out of the novation agreement were stipulated to be resolved by the exclusive jurisdiction to the onshore Dubai Courts.</p> <p>The Respondent commenced proceedings for non-payment in the onshore Dubai Courts and the Applicant applied to the DIFC Courts for a declaration that the sub-contract was binding on the Respondent.</p> <p>(Cassation No. 6/2020 – <i>Five Real Estate Development v Phoenician Technical Services LLC</i>).</p>	<p>The DIFC Courts had jurisdiction over the claim.</p> <p>The Tribunal noted that:</p> <ol style="list-style-type: none"> 1. The novation agreement entered into by the appellant and respondent required that the respondent stepped into the shoes of the original party to the subcontract agreement and take on the obligations stipulated therein. 2. Although the novation agreement included a jurisdiction clause conferring jurisdiction to the onshore Dubai Courts, this jurisdiction was limited to disputes arising out of the novation agreement and not the subcontract agreement.
<p>(E) Proceedings in Dubai Courts in support of proceedings in DIFC Courts</p>		
<p>23.</p>	<p>A party had obtained precautionary attachment from the onshore Dubai Courts in support of a pending claim before the DIFC Courts. The onshore Dubai Courts had also denied jurisdiction over the dispute in favour of the DIFC Courts.</p> <p>(Cassation No. 2/2020– <i>Essar Projects Limited v (1) Eco bank Nigeria Limited (2) ITI Specialized Finance Company LLC</i>)</p>	<p>the DIFC Court has jurisdiction over the dispute.</p> <p>The Tribunal noted that:</p> <ol style="list-style-type: none"> 1. The onshore Dubai Courts previously ruled that it had no jurisdiction to hear the case and it was the jurisdiction of the DIFC Courts. 2. The DIFC Court stopped the procedures of hearing a concurrent dispute between the parties and there was therefore no conflict of jurisdiction. 3. Neither the DIFC Court nor the onshore Dubai Courts issued any explicit or implicit

No.	Type of Conflict	Tribunal's Decision & Comment
		judgments regarding whether they continued to have jurisdiction. 4. As such, the DIFC Court was not prevented from issuing a judgement on the dispute presented to it as there was no conflict of jurisdiction.

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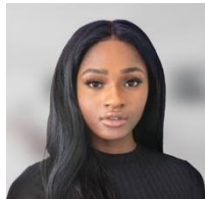
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