ARB-012-2023 (1) Novak (2) Nola (3) Nadim v (1) Norwood (2) Numair

The DIFC Courts dismissed an application by award debtors to set aside a USD 1.6 billion ICC award issued in a DIFC-seated arbitration, which raised significant questions about the act of state doctrine's (AOS Doctrine) role in DIFC law. The award creditors submitted to the Court that the debtors bribed officials in an Iraqi state entity, resulting in a decision that caused substantial financial losses. In response, the award debtors submitted that the tribunal lacked jurisdiction to hear corruption claims, asserting that the AOS Doctrine barred tribunals from assessing the validity or legality of sovereign acts by a foreign state. Despite this, the arbitral tribunal rejected the jurisdictional challenge and rendered the award, which was later recognised by the DIFC Courts through an enforcement order issued in April 2023.

The award debtors sought to annul the award, claiming that determining the validity of foreign state acts was impermissible under the AOS Doctrine unless such acts breached public policy. They submitted that the tribunal had exceeded its jurisdiction and violated UAE public policy by dismissing the debtors' objections.

The DIFC Courts acknowledged that the AOS Doctrine forms part of DIFC law as a component of UAE public policy but emphasised the high threshold for setting aside awards set out under the aforementioned law. It concluded that the award debtors failed to demonstrate that the tribunal had acted outside its jurisdiction or breached the AOS Doctrine and UAE public policy. Within the same decision, the Court also upheld the Court of Appeal's precedent in *Lachesis v Lacrosse (2021) DIFC CA 005*, which determines errors of law or fact alone are insufficient to overturn awards.

This decision reinforces the DIFC Courts' commitment to the finality and integrity of arbitral awards, underscoring the high standards required to challenge them and solidifying the DIFC Courts' reputation as a reliable forum for resolving complex international disputes.