

Enforcement of Arbitral Awards in Commercial Disputes: Challenges of Harmonizing UAE Law with the Imperative of Compliance with Islamic Principles

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Abstract

This study examines the enforcement of arbitral awards in commercial disputes within the framework of United Arab Emirates (UAE) legislation, with a particular focus on the challenge of reconciling the requirements of international commercial arbitration with adherence to Islamic principles as an integral component of public policy. The research is premised on the assumption that the effectiveness of arbitration is not achieved merely by the issuance of an award, but is ultimately realized at the enforcement stage, which constitutes the true test of the system's efficacy. Adopting an analytical approach, the study reviews the legal framework governing the enforcement of arbitral awards under Federal Law No. 6 of 2018, outlining the conditions and procedures necessary for granting enforceability, as well as examining the role of the judiciary in exercising limited oversight confined to procedural aspects without encroaching upon the merits of the dispute. The study further explores the concept of public policy and its extension to encompass Islamic principles, highlighting key instances of potential conflict between arbitral awards and these principles, such as issues relating to usury (*riba*), uncertainty (*gharar*), and the illegitimacy of certain contractual arrangements. The findings indicate that the primary challenge lies in achieving a delicate balance between openness to international arbitration standards and the preservation of the legislative particularity derived from Islamic law. This necessitates the adoption of a flexible approach that distinguishes between fundamental and non-fundamental conflicts. The study also underscores the pivotal role of the judiciary in maintaining this balance through a non-restrictive interpretation of public policy, alongside the importance of awareness among parties and arbitral tribunals of the applicable legal environment to avoid complications at the enforcement stage. The study concludes by recommending enhanced integration between legal frameworks and Sharia-based references to ensure the effectiveness and stability of the commercial arbitration system.

Keywords: Arbitration, Commercial Disputes, Islamic Principles, Arbitral Awards

Introduction

In the context of economic globalization, commercial arbitration has become one of the most significant alternative dispute resolution mechanisms, distinguished by its procedural efficiency, flexibility, and capacity to accommodate the complexities of contemporary commercial relationships, particularly those of an international nature. The United Arab Emirates has recognized the importance of this system in fostering a favorable investment climate and enhancing confidence in its economic environment. Consequently, it has developed a modern legal framework for arbitration, culminating in the promulgation of Federal Law No. 6 of 2018 on Arbitration, which largely aligns with international standards, most notably the UNCITRAL Model Law and the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

However, the effectiveness of arbitration is not complete upon the mere issuance of an award; rather, its true significance emerges at the enforcement stage, which represents the practical test of the system's viability. An arbitral award, regardless of its precision and legal soundness, remains devoid of practical effect unless it is recognized and enforced by the national judiciary (Ben Soussa & Khodour, 2025). Hence, the issue of enforcing arbitral awards becomes particularly critical, as it is at this stage that legal considerations intersect with the requirements of public policy, including rules derived from Islamic law, which constitute one of the principal sources of legislation in the UAE.

In this context, a fundamental question arises regarding the extent to which it is possible to reconcile the demands of openness to international commercial arbitration, which may sometimes involve concepts conflicting with certain Sharia principles, such as interest-based transactions or elements of excessive uncertainty, with the necessity of adhering to Islamic rules that form part of public policy. Such conflicts may lead to the refusal of enforcement of certain arbitral awards, thereby raising practical challenges that affect the stability of commercial transactions and investor confidence.

Accordingly, this study seeks to achieve the following objectives:

- To examine the legal framework governing the enforcement of arbitral awards under UAE law.
- To analyze the role of public policy, particularly Islamic legal principles, in shaping judicial approaches to enforcement.
- To identify the key challenges arising from potential conflicts between international arbitration practices and Sharia-based rules.
- To evaluate the extent to which UAE courts balance international legal commitments with domestic legal and ethical considerations.
- To propose practical recommendations for enhancing the effectiveness and consistency of arbitral award enforcement in the UAE.

Chapter One: The Legal Framework for the Enforcement of Arbitral Awards in Commercial Disputes

The enforcement of arbitral awards represents the decisive stage in the arbitration process, as its effectiveness is only realized through granting the award enforceable force, thereby enabling the binding of the parties and achieving the intended practical outcome. Regardless of the accuracy and neutrality of an arbitral award, it requires a legal mechanism that transforms it from a mere decision resolving a dispute into a binding and enforceable

instrument. This underscores the importance of defining the framework governing this process, both in terms of the conditions that must be satisfied by the award and the role played by the judiciary in supervising the integrity of enforcement (Ben Soussa & Khodour, 2025).

This framework is grounded in a combination of considerations: on the one hand, ensuring respect for the parties' autonomy in choosing arbitration, and on the other, preserving public policy by preventing the enforcement of awards that conflict with fundamental legal principles or core societal values. Consequently, the enforcement of arbitral awards is not merely a formal procedure, but rather a precise legal process requiring verification that the award satisfies a set of substantive and procedural requirements.

This stage also reveals the nature of the relationship between arbitration and the judiciary. While arbitrators possess the authority to decide disputes, they do not have the power to enforce their decisions independently; rather, enforcement remains within the jurisdiction of the courts. Judicial oversight is thus exercised within defined limits, focusing on procedural integrity rather than the merits of the dispute, reflecting a delicate balance between the autonomy of arbitration and the authority of the judiciary.

Accordingly, the study of the legal framework for enforcing arbitral awards necessitates an examination of both the conditions and procedures governing enforcement, as well as the limits of judicial oversight.

Section One: Conditions and Procedures for the Enforcement of Arbitral Awards

The enforcement stage of an arbitral award constitutes a natural extension of the arbitration process, wherein the resolution of the dispute moves from a theoretical determination to practical implementation. However, such enforcement does not occur automatically; rather, it is subject to a set of conditions and procedures designed to ensure the validity and enforceability of the award (Aladaseen, 2026).

With respect to conditions, the award must relate to a dispute that is arbitrable, and it must be final and determinative of the merits, rather than merely provisional or preparatory. It must also be rendered in accordance with proper procedures that respect due process, including the rights of defense and the principle of adversarial proceedings. Furthermore, the arbitral tribunal must act within the scope of its jurisdiction, without exceeding its mandate or deviating from the subject matter of the dispute. The award must also be free from serious defects that could undermine its legal validity, such as ambiguity, contradiction, or violation of fundamental principles of public policy.

As for procedures, enforcement involves a legal process aimed at granting the award executory force. The successful party must submit an application to the competent judicial authority, accompanied by the arbitral award and supporting documentation, enabling the court to verify compliance with the required conditions. This stage constitutes a form of formal review, limited to procedural aspects and not extending to a reconsideration of the merits of the dispute (Wahab & Merameria, 2021).

The importance of these procedures lies in their function as the point of intersection between the autonomy of arbitration and the authority of the judiciary. Judicial intervention is not

perceived as undermining arbitration, but rather as a necessary safeguard ensuring compliance with legal standards and the protection of the parties' rights. Moreover, this stage provides the opportunity to refuse enforcement where a fundamental defect is established, thereby maintaining a balance between the effectiveness of arbitration and the requirements of justice (Abdulmalek & Alnimer, 2026).

Section Two: The Role of the Judiciary in Supervising Arbitral Awards

The judiciary plays a central role in the enforcement of arbitral awards by exercising a supervisory function aimed at ensuring their validity without interfering with their substance. While arbitration is founded upon party autonomy and freedom of choice, this autonomy does not imply complete immunity from judicial oversight. Rather, such oversight serves as a fundamental guarantee for the proper administration of justice and adherence to essential legal principles.

This judicial review is inherently limited in scope. It does not extend to reassessing the arbitrator's evaluation of facts or interpretation of contractual terms, but is confined to verifying the existence of essential conditions for the validity of the award. This includes ensuring respect for due process, procedural regularity, the absence of excess of jurisdiction, and the lack of serious defects that could affect the award's enforceability.

The judiciary's role becomes particularly significant when assessing the compatibility of the arbitral award with public policy. Courts may refuse enforcement if the award is found to contravene fundamental legal principles or core societal values. This function acts as a safeguard against the enforcement of awards that could disrupt the legal order, without undermining the effectiveness of arbitration (Wahab & Merameria, 2021).

Thus, the judicial role reflects a careful balance between supporting arbitration as an efficient dispute resolution mechanism and upholding the rule of law. Courts are not adversaries of arbitration, but rather partners in its success, providing the necessary supervisory framework to ensure the integrity and legitimacy of its outcomes.

Chapter Two: Public Policy and Islamic Principles in the Enforcement of Arbitral Awards

The enforcement of arbitral awards raises a fundamental issue that transcends procedural considerations and touches upon the value-based foundations of the legal system, particularly when arbitral awards intersect with the concept of public policy and its underlying principles. Public policy is not confined to mandatory legal rules in a narrow sense, but extends to encompass a broader set of values reflecting the identity and orientation of society, including principles derived from Islamic law, which hold a significant position within the UAE legal framework (Shabat, 2026).

In this context, Islamic principles emerge as a determining factor that may affect the enforceability of arbitral awards, particularly where such awards involve elements that may be deemed inconsistent with these principles, such as transactions involving usury, excessive uncertainty, or violations of fairness in contractual relations. Public policy thus functions as a flexible concept capable of accommodating these considerations, granting the judiciary discretionary authority to assess the compatibility of arbitral awards with such standards.

The challenge, however, lies not only in defining the scope of public policy, but also in reconciling it with the requirements of commercial arbitration, which is characterized by openness, flexibility, and the incorporation of international practices. A rigid application of public policy may hinder the enforcement of arbitral awards, whereas excessive leniency may undermine fundamental values. This necessitates the achievement of a careful balance between these competing considerations.

Accordingly, examining the relationship between public policy and Islamic principles in the context of arbitral award enforcement requires an analysis of the concept and scope of public policy, its extension to Sharia-based rules, and the various forms of potential conflict between arbitral awards and these principles.

Section One: The Concept of Public Policy in the Enforcement of Arbitral Awards and Its Extension to Islamic Principles

Public policy constitutes a fundamental concept that operates as a limitation on the freedom of individuals to regulate their legal relationships, while simultaneously serving as a governing معيار in the context of enforcing arbitral awards. This concept is not confined to mandatory legal rules in their narrow sense, but extends to encompass a set of core principles upon which the structure of society is founded, whether legal, ethical, or economic in nature. Accordingly, public policy represents the minimum threshold of values that cannot be derogated from by agreement or by the recognition of legal effects that contradict them.

Within the framework of arbitration, public policy assumes particular significance, as it constitutes one of the primary grounds upon which the enforcement of an arbitral award may be refused, where it is found to contravene these fundamental principles. The challenge, however, lies not in the existence of this limitation, but in determining its scope and content, especially given the inherently flexible nature of public policy and its variation across different legal systems according to their cultural and normative specificities (Miri, 2026).

In this regard, Islamic principles emerge as a core component of public policy in many legal systems grounded in Islamic jurisprudence. These principles contribute to shaping the normative framework governing transactions, particularly in financial and commercial contexts. They are reflected in a number of foundational rules aimed at ensuring justice and balance, most notably the prohibition of usury (riba), the avoidance of excessive uncertainty (gharar), the requirement of lawful subject matter and cause in contracts, and the emphasis on good faith in dealings (Aqel & Qala', 2023).

The influence of these principles extends to the enforcement stage of arbitral awards, raising questions as to the permissibility of enforcing awards that incorporate elements inconsistent with such rules. In this context, public policy functions as a legal mechanism that enables courts to review arbitral awards in light of these principles and to ensure that they do not undermine the foundational values of the legal system.

Nevertheless, the extension of public policy to include Islamic principles does not imply their rigid or literal application. Rather, it requires interpretation within a framework that takes into account the nature of modern commercial transactions and the demands of economic openness. This necessitates achieving a balance between adherence to Sharia-based

references and the need to avoid impeding commercial activity or undermining the effectiveness of arbitration as a dispute resolution mechanism.

Accordingly, the concept of public policy in the enforcement of arbitral awards should be understood as a dynamic construct, in which legal and Sharia-based elements intersect, aimed at safeguarding the fundamental values of society while maintaining sufficient flexibility to ensure transactional stability and to avoid unjustified obstruction of arbitral enforcement (Alhiniti & Zaid, 2026).

Section Two: Forms of Conflict Between Arbitral Awards and Islamic Principles

The enforcement of arbitral awards in commercial disputes gives rise to practical challenges where such awards contain elements that may conflict with certain principles derived from Islamic law, thereby directly affecting their enforceability. These conflicts are not limited to a single dimension, but rather manifest in multiple forms linked to the nature of modern commercial transactions, which may at times rely on mechanisms or concepts that are not fully compatible with Sharia-based rules (Abdelkader, 2026).

One of the most prominent forms of conflict relates to financial transactions involving elements of usury, where an arbitral award may require a party to pay interest, whether as a result of delay or as part of the principal obligation. Such provisions present a significant issue from the perspective of Islamic principles. Another form arises in cases involving excessive uncertainty or ambiguity in the subject matter of the obligation, such as contracts based on indeterminate contingencies or unclear conditions, thereby undermining the principle of certainty and stability in transactions.

Conflict may also arise from the nature of certain contracts or activities underlying the dispute, where they are considered unlawful from a Sharia perspective or involve a violation of fairness and balance between the parties. Additionally, issues may also arise in the assessment of damages, particularly where compensation exceeds the extent of actual harm and leads to unjust enrichment, or where it is not based on demonstrable loss, thereby conflicting with Sharia-based rules governing compensation (Abdelkader, 2026).

The issue is not confined to the substantive content of arbitral awards, but may also extend to the procedures under which they are rendered, particularly where such procedures compromise principles of justice or the rights of defense. These are principles that align both with legal standards and with Islamic values emphasizing fairness and equitable treatment between disputing parties.

The complexity of this issue is further heightened by the international character of many commercial disputes, where arbitrators may apply foreign laws or international trade practices that do not take into account Sharia-based considerations. This creates a divergence between the outcome of the arbitral award and the requirements of the domestic normative framework.

Accordingly, the various forms of conflict between arbitral awards and Islamic principles highlight the need for mechanisms capable of achieving a balance between respecting these

principles and preserving the effectiveness of arbitration as a dispute resolution method. This requires a nuanced approach that ensures neither consideration is compromised.

Chapter Three: Balancing the Requirements of Commercial Arbitration with Compliance with Islamic Principles

Achieving a balance between the requirements of commercial arbitration, characterized by efficiency, flexibility, and openness, and compliance with Islamic principles represents one of the most significant challenges facing legal systems grounded in Sharia-based references, particularly in light of the increasing reliance on arbitration as a means of dispute resolution. While arbitration seeks to accommodate international commercial practices and provide an attractive investment environment, Islamic principles impose a normative framework aimed at ensuring justice, preventing exploitation, and regulating transactions in accordance with ethical standards (Alhiniti & Zaid, 2026).

In this context, there is a clear need to develop a balanced approach that neither undermines the essence of arbitration nor neglects the fundamental قواعد underpinning the legal system. Excessive flexibility may result in the enforcement of awards that conflict with core values, whereas excessive rigidity may hinder enforcement and weaken confidence in arbitration as a viable mechanism.

Achieving such balance extends beyond legislative measures to include the role of the judiciary in interpreting and applying rules in a manner that takes into account the specific circumstances of each case. It also requires awareness on the part of both parties and arbitral tribunals of the legal environment in which arbitration operates. Integrating Sharia-based considerations into the arbitral process from its inception is therefore essential to minimizing potential conflicts at the enforcement stage (Wahab & Merameria, 2021).

Section One: The Judicial Approach to the Enforcement of Arbitral Awards Conflicting with Islamic Principles

The judiciary constitutes the determining authority in the enforcement of arbitral awards, possessing the discretion to assess the extent to which an award complies with public policy, including Islamic principles. This role becomes particularly significant where a potential conflict arises between the arbitral award and Sharia-based rules, requiring courts to strike a careful balance between respecting the binding nature of arbitral awards and refusing enforcement where fundamental legal principles are violated (Wahab & Merameria, 2021).

In practice, courts tend to adopt a restrictive approach in interpreting violations of public policy, refraining from refusing enforcement except in cases where the conflict is clear and substantial. Not every inconsistency with Islamic principles leads to non-enforcement; rather, the decisive factor is whether the conflict affects the core of justice or fundamental transactional values. This approach reflects judicial support for arbitration and a reluctance to obstruct its effectiveness without compelling justification.

Courts may also demonstrate flexibility by distinguishing between different parts of an arbitral award, allowing enforcement of those components that do not conflict with fundamental principles, while disregarding or excluding the conflicting elements. This

approach mitigates the negative consequences of total non-enforcement and contributes to the stability of commercial transactions.

Moreover, courts take into account the nature and context of the dispute, particularly in cases of an international character, where considerations related to global commercial practices may be balanced against adherence to essential normative standards (Shabat, 2026).

Thus, the judicial approach is characterized by caution and balance, aiming to protect public policy without undermining the effectiveness of arbitration, thereby enhancing confidence in the system and contributing to its stability.

Section Two: Mechanisms for Achieving Compatibility Between Commercial Arbitration and Islamic Principles

Ensuring compatibility between commercial arbitration and Islamic principles is a practical necessity for maintaining the effectiveness and stability of arbitration systems, particularly in jurisdictions with a Sharia-based legal foundation. Such compatibility should not be limited to the enforcement stage, but must be embedded throughout all phases of the arbitral process, beginning with the formation of the contractual relationship (Miri, 2026).

One of the key mechanisms in this regard is the careful drafting of arbitration agreements, whereby parties explicitly define the legal and Sharia framework governing their relationship, including the exclusion of provisions that may give rise to conflicts with Islamic principles (Aqel & Qala', 2023). This approach guides arbitral tribunals toward issuing awards that are consistent with these parameters and reduces the likelihood of enforcement challenges.

Arbitral tribunals themselves play a crucial role by taking into consideration the legal environment in which the award will be enforced, ensuring that their reasoning and decisions do not conflict with fundamental principles. This is particularly relevant in the assessment of damages, the formulation of operative provisions, and the avoidance of elements that may raise Sharia-related concerns, while still ensuring fairness between the parties.

Additionally, the use of specialized expertise, whether through the appointment of arbitrators with knowledge of Sharia principles or through consultation with experts, contributes to enhancing the quality of arbitral awards and reducing the likelihood of challenges at the enforcement stage.

The judiciary also supports this compatibility by adopting a balanced and flexible interpretation of public policy, ensuring that it is not invoked to refuse enforcement except in cases of substantive conflict. This approach strengthens confidence in arbitration and encourages its use without fear of unjustified refusal of enforcement.

Accordingly, achieving compatibility between commercial arbitration and Islamic principles requires the combined efforts of parties, arbitral tribunals, and the judiciary, within an integrated framework that respects Sharia-based values without compromising the demands of modern commerce.

Conclusion

This study demonstrates that the enforcement of arbitral awards in commercial disputes constitutes the decisive stage of the arbitration process, where its effectiveness and capacity to ensure justice and transactional stability are ultimately tested. The analysis reveals that this stage extends beyond formal procedures to encompass complex legal and value-based dimensions, particularly in light of the interaction between modern arbitration requirements and principles derived from Islamic law.

The central challenge lies in achieving a balance between openness to international arbitration practices and the preservation of legislative particularity grounded in Islamic principles. Such balance cannot be attained by prioritizing one dimension over the other, but rather through a flexible approach that distinguishes between fundamental conflicts affecting public policy and minor inconsistencies that do not undermine the essence of justice.

The judiciary plays a pivotal role in this regard through its supervisory function, striving to protect public policy without diminishing the effectiveness of arbitration. At the same time, the role of the parties and arbitral tribunals remains essential, as careful drafting and awareness of the legal environment can prevent many potential conflicts before reaching the enforcement stage.

Ultimately, the study highlights the importance of an integrated approach that harmonizes legal and Sharia-based frameworks, ensuring both the effectiveness of arbitration and the preservation of the fundamental values upon which the legal system is founded.

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