

# Force majeure under scrutiny

## Defending contractual positions amid rising geopolitical risk

Recent geopolitical developments linked to the Middle East crisis have reignited force majeure discussions across the UAE and the wider GCC. Disrupted shipping routes, sanctions exposure, insurance uncertainty and heightened security concerns are impacting delivery schedules and contractual commitments. In certain cases, these effects are likely to result in disputes and arbitration. However, the invocation of force majeure is rarely determined by the scale of the event itself. It rests on evidence, causation and conduct.

Under the UAE Civil Code, force majeure requires objective impossibility, not merely increased cost or commercial discomfort. Organisations must treat force majeure as a defensive legal position, built on disciplined documentation, timely notice and a clear understanding of UAE legal thresholds.

## Top 5 considerations

### Businesses need to ask

01

#### **Understand the legal threshold under UAE law**

Do we clearly understand the distinction between force majeure (objective impossibility) and hardship (excessively onerous performance), and are we applying the correct standard before invoking contractual protections?

02

#### **Establish direct causation between events and non-performance**

Can we demonstrate a specific, direct link between the geopolitical disruption and our inability to perform, rather than relying on general references to 'regional instability' or 'uncertainty'?

03

#### **Build contemporaneous documentation from day one**

Are we creating realtime records of disruptions, alternative assessments and mitigation steps, or will our evidence trail only begin once a dispute has crystallised?

04

#### **Serve contractual notices strictly and on time**

Have we reviewed and complied with the notice provisions in our contracts, including form, timing and recipient requirements, before invoking force majeure?

05

#### **Demonstrate genuine mitigation efforts**

Can we show that we genuinely explored and assessed alternative performance routes—even at higher cost—rather than defaulting to suspension once margins were eroded?

# Navigating force majeure challenges

## Impossibility vs. hardship: the critical distinction

UAE Civil Code principles set a high bar. Cost increases, risk aversion or commercial discomfort rarely amount to force majeure. Tribunals focus on what precisely prevented performance, and when. Organisations that conflate difficulty with impossibility risk having their claims rejected entirely.

## The paper trail determines the outcome

In arbitration, contemporaneous project records, internal correspondence and documented mitigation efforts carry significantly more weight than post hoc narratives. The gap between a successful defence and a failed one is almost always created—or lost—before a dispute is formally filed.

## Predispute readiness as a strategic advantage

Assessing force majeure and hardship exposure under existing contracts, and establishing documentation frameworks and notice protocols before disputes arise, places organisations in a defensible position rather than leaving them exposed to reactive risk.

## Forensic causation analysis separates genuine claims from weak ones

Separating geopolitical impact from preexisting delays, cost overruns or commercial decisions is critical. Tribunals routinely scrutinise whether the alleged force majeure event was the actual cause of non-performance, or merely a convenient overlay.

Reach out for any discussions or support regarding force majeure.



### Aakash Bassi

Partner, Risk and Regulatory  
Advisory (Forensics and  
Restructuring)  
aakash.bassi@ae.gt.com



### Ahmad Chit

Partner, Forensics  
ahmad.chit@ae.gt.com

Follow us on LinkedIn



[grantthornton.ae](https://www.grantthornton.ae)

© 2026 Grant Thornton UAE. All rights reserved.  
Grant Thornton refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires.