

General Dynamics United Kingdom Ltd (Respondent) v State of Libya (Appellant)

Case ID: UKSC 2019/0166

Case summary

Issue

Commercial interactions with foreign states are governed by the State Immunity Act 1978 ("SIA"). This appeal raises questions about how to enforce an arbitral award (the "Award") against a foreign state within this framework, namely whether:

1. the SIA requires service of certain documents to the state concerned through the Foreign and Commonwealth Office ("FCO");
2. an arbitration claim form is within the category of documents required by section 12(1) of the SIA to be served on a state through the FCO; and
3. in exceptional circumstances, the court can make use of certain rules of English civil procedure (which govern litigation proceedings) to dispense with such service.

Facts

GD is part of the General Dynamics group, a global defence conglomerate. Libya is a sovereign state which, at the time of these proceedings, had two competing governments. A dispute arose between the parties over a contract for the supply of communications systems. In January 2016, an arbitral tribunal in Geneva made an award of approximately £16 million (plus interest and costs) in favour of GD. The Award remains unsatisfied, but GD wishes, and has attempted, to enforce it in England and Wales. In July 2018, the High Court made an order which, amongst other things, allowed GD to enforce the Award, dispense with the requirement on it to serve a claim form or any associated documents on Libya and provided for Libya to be notified of the order (as the initial hearing had been held without notice).

Subsequently, Libya applied to the High Court to set aside those parts of the initial order dispensing with service. It referred to section 12(1) of the SIA, which requires service of 'any writ or other document required to be served for instituting proceedings against a State' to be transmitted to that state's Ministry of Foreign Affairs by the FCO. It asserted that, as no service in this manner either of the arbitration claim form or of the High Court's order giving permission to enforce the Award had occurred, the order had to be set aside and the Award could not be enforced. Accordingly, it argued, any assets of Libya in the jurisdiction could not be used to satisfy the Award. The High Court's initial order was therefore overturned.

However, the Court of Appeal restored the High Court's initial order finding that it was not mandatory for the arbitration claim form or order permitting enforcement to be served through the FCO.

Judgment appealed

[\[2019\] EWCA Civ 1110](#)

Parties

Appellant(s)

State of Libya

Respondent(s)

General Dynamics United Kingdom Ltd

Appeal**Justices**

Lord Lloyd-Jones, Lord Briggs, Lady Arden, Lord Kitchin, Lord Burrows.

Hearing start date

15 Dec 2020

Hearing finish date

15 Dec 2020

Watch hearing

15 Dec 2020 [Morning session](#) [Afternoon session](#)

Judgment details**Judgment date**

25 June 2021

Neutral citation

[2021] UKSC 22