

JUDGMENT SUMMARY

Neutral Citation	[2025] ADGMCFI 0001
Case Number	ADGMCFI-2024-322 and ADGMCFI-2024-323
Name of Case	A17 v B17 & Others A18 v B18 & Anor.
Judge	Justice Sir Andrew Smith
Date Issued	4 April 2025
Catchwords	Application to discharge worldwide freezing order. Jurisdiction of the Court to make worldwide freezing order. Chabra jurisdiction. Application for further information under information order. Application to set aside recognition and enforcement order of arbitral award.
Cases Cited	<p>Guarantee Trust Co of New York v Hannay & Co [1915] 2 KB 536</p> <p>Abu Dhabi Commercial Bank PJSC v Bavaguthu Raghuram Shetty and ors [2021] ADGM CFI 0004</p> <p>Convoy Collateral Ltd v Broad Idea International Ltd [2021] UKPC 24</p> <p>Conocophillips China Inc v Greka Energy (International) BV and anor [2013] EWHC 2733 (Comm) Cruz City 1</p> <p>Mauritius Holdings v Unitech Ltd and ors [2014] EWHC 3704 (Comm)</p> <p>Abu Dhabi Commercial Bank PJSC v Prasanth Manghat [2024] ADGM CFI 010</p> <p>Carmon Reestrutura-engenharia E Services Tecnicos Especiais, (SU) LDA and anor v Antonio Joao Catete Lopes Cuenda [2024] DIFC CA 003</p> <p>Sandra Holding Ltd and anor v Nuri Musaед Al Saleh and ors [2023] DIFC CA 003</p> <p>Fourie v Le Roux and ors [2007] UKHL 1</p> <p>Lakatamia Shipping Co Ltd v Morimoto [2019] EWCA Civ 2203</p> <p>TSB Privat Bank International SA v Chabra and anor [1992] 1 WLR 231</p> <p>PJSC Vseukrainskyi Aktsionernyi Bank v Sergey Maksimov and ors [2013] EWHC 422 (Comm)</p> <p>Wolverhampton City Council and ors v London Gypsies and Travellers and ors [2023] UKSC 47</p>

	<p>ArcelorMittal USA LLC v Essar Steel Services (UK) Ltd and ors [2019] EWHC 724</p> <p>Van Uden Maritime BV v Kommanditgesellschaft in Firma Deco-Line (case c-391/95) Republic of Haiti v Duvalier [1990] 1 QB 202</p> <p>Mobil Cerro Negro Ltd v Petroleos de Venezuela SA [2008] EWHC 532 (Comm)</p> <p>Motorola Credit Corpn v Uzan and ors (No 2) [2003] EWCA Civ 752 AC</p> <p>Network Holding Ltd and ors v Polymath Ekar SPV1 and ors [2023] ADGM CA 0002</p> <p>Yukong Line Ltd v Rendsburg Investments Corp. [2000] EWCA Civ 358</p> <p>Alexander Tugushev v Vitaly Orlov and ors [2019] EWHC 2031 (Comm)</p> <p>A v C [2020] EWCA Civ 409</p> <p>Lachesis v Lacrosse [2021] DIFC CA 005</p> <p>A4 v B4 [2019] ADGM CFI 0007</p> <p>General Dynamics United Kingdom Limited v the State of Libya [2022] EWHA 501 (Comm)</p>
Legislation and Authorities Cited	<p>ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – Sections 16, 41 and 227</p> <p>ADGM Arbitration Regulations 2015 – Sections 60- 62</p> <p>ADGM Court Procedure Rules 2016 – Rule 71</p> <p>Abu Dhabi Law No 4 of 2013, as amended by Abu Dhabi Law No 12 of 2020 (the “Founding Law”) – Articles 3, 13 and 14</p> <p>Application of English Law Regulations 2015</p> <p>Judicial Authority Law (No. 12 of 2004) – Article 5A(1)</p> <p>Senior Courts Act 1981 – Section 37</p> <p>Civil Jurisdiction and Judgments Act 1982 – Section 25</p>
Executive Summary	<p>This judgment considered applications related to the discharge of a worldwide freezing order, the Court's jurisdiction to issue such orders, Chabra jurisdiction, applications for further information under an information order, and an application to set aside the recognition and enforcement order of an arbitral award.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment concerned two linked cases, ADGMCFI-2024-322 and ADGMCFI-2024-323. They stemmed from a London-based arbitration conducted under the LCIA rules.</p> <p>The Claimant, A17, a company incorporated in “<i>onshore</i>” Abu Dhabi, obtained an arbitration award totalling approximately US\$225 million</p>

	<p>(including interest) against the First Respondent, B17, and the Second Respondent, C17, both Cypriot companies. The award remained wholly unsatisfied. Following the award, A17 initiated proceedings in the ADGM Court.</p> <p>In case ADGMCFI-2024-322, A17 applied for a worldwide freezing order (“WFO”) and ancillary orders against B17, C17, and the Third Respondent, D17, an ADGM-incorporated company.</p> <p>In case ADGMCFI-2024-323, A17 sought recognition and enforcement of the arbitration award against B17 and C17. D17 was not a party to the arbitration but is part of the same group as B17 and C17, and C17 had charged its shares in D17 as security for its obligations under the financing facility with A17. The Respondents challenged the ADGM Court's jurisdiction to make the WFO and applied to set aside the initial recognition and enforcement order obtained by A17.</p> <p>Analysis</p> <p>The Court first addressed the jurisdiction of the ADGM Court to issue a WFO against B17 and C17, entities not resident in the ADGM. It rejected the argument that <i>in personam</i> jurisdiction over the defendant is a necessary condition in the ADGM Courts, stating that unlike English courts, ADGM jurisdiction is not based on personal jurisdiction. The Court adopted the reasoning of the DIFC Court of Appeal in the <i>Carmon</i> case, holding that ADGM Courts have jurisdiction to grant interim relief, including freezing orders, in support of foreign proceedings even without a local nexus, interpreting the relevant ADGM regulations as conferring such "power" or jurisdiction. The Court also confirmed its Chabra jurisdiction, the power to make a freezing order against a third party (D17) who holds assets of the judgment debtor or is connected to them, even if there is no direct claim against the third party. This was considered applicable to D17 given the share charge and evidence suggesting D17's potential participation in hindering enforcement.</p> <p>The Court then examined the requirements for granting a WFO. It found the first requirement – a good arguable case for a money judgment – was met by the unchallenged arbitration award. Regarding the third requirement – a real risk of dissipation of assets – the Court found sufficient evidence, citing asset transfers made by B17 and D17 between the arbitration hearing and the award. The Court noted the Respondents' attempts to justify these transfers but found the evidence supporting a risk of dissipation persuasive.</p> <p>Concerning the second requirement – whether the respondents hold assets against which the award could be enforced – the Court considered the Cash Management System (“CMS”) operated by D17 for the group . Despite the Respondents' denials of beneficial ownership by B17 or C17 in D17's bank accounts, the Court found a good arguable case that the operation of the CMS created claims by B17 and C17 against D17. As D17 is an ADGM company, such claims would likely be considered assets with a situs in the ADGM. The Court also held that D17's own assets could be reached through compulsory process via the Chabra jurisdiction.</p>
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	<p>The Court rejected the Respondents' allegations that A17 had failed to make full and frank disclosure during the ex parte WFO application. Consequently, it also rejected the argument that the recognition and enforcement order for the award should be set aside on that basis , reaffirming that recognition and enforcement under the ADGM Arbitration Regulations is mandatory unless specific exceptions apply.</p> <p>Finally, the Court considered A17's application for further information about the Respondents' assets, confirming its jurisdiction to order such information where a freezing order is granted and finding the Respondents' initial response inadequate.</p> <p>Conclusion</p> <p>The Court dismissed the Respondents' applications to discharge the worldwide freezing order and to set aside the order for recognition and enforcement of the arbitration award. This means the worldwide freezing order stands against B17, C17, and D17, and the arbitration award is recognised and enforceable in the ADGM. The Court found that the conditions for granting the WFO were met, including the Court's jurisdiction, the risk of dissipation, and the existence of assets amenable to enforcement, including potential claims arising from the CMS and D17's assets under the Chabra jurisdiction. The Court also rejected the non-disclosure arguments raised by the Respondents. The Court will hear further submissions regarding the exact terms of the WFO and A17's application for further information about the Respondents' assets.</p>
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court’s reasons.