

JUDGMENT SUMMARY

Neutral Citation	[2026] ADGMCFI 0012
Case Number	ADGMCFI-2025-301
Name of Case	A28 v. B28
Judge	Justice Paul Heath KC
Date Issued	17 April 2026
Catchwords	Arbitration clause providing for unilateral right of appointment of arbitrator and application of ICC Rules. Whether Court has jurisdiction to set aside decisions of the ICC Court: (i) appointing an arbitrator under Articles 12(9) and 13(4)(a) of the ICC Rules; and (ii) rejecting a party challenge under Article 14. Whether exercise of jurisdiction is precluded by Article 11(4) of the ICC Rules or sections 19 and 21 of the ADGM Arbitration Regulations 2015.
Legislation Cited	ADGM Arbitration Regulations 2015 ADGM Court Procedure Rules 2016
Cases Cited	<i>A3 v B3</i> [2019] ADFGMCFI 0004 <i>A24 v B24</i> [2025] ADGMCFI 0019 <i>A30 v E30</i> [2025] ADGMCA 0003 <i>Jivraj v Hashwani</i> [2011] UKSC 40 <i>Sierra Fishing Company v Farran</i> [2015] EWHC 140 (Comm)
Executive Summary	<p>The ADGM Court of First Instance (the “ADGM Court”) considered whether it had the jurisdiction to set aside the International Chamber of Commerce (“ICC”) Court’s decision to appoint a sole arbitrator, contrary to a contractual unilateral appointment right held by one of the parties</p> <p>The ADGM Court dismissed A28’s claim, ruling that the Court’s supervisory jurisdiction was not engaged because the ICC Court’s appointment did not breach any mandatory provisions of the ADGM Arbitration Regulations 2015.</p>

Overall Summary

Background

A dispute arose out of a sub-contract entered into in November 2022 between A28 (as principal contractor) and B28 (the sub-contractor) for construction works.

Clause 11.2 of the sub-contract contained an arbitration agreement for disputes to be resolved in ICC arbitration with an ADGM seat, by a sole arbitrator to be appointed unilaterally by A28.

B28 filed a Request for Arbitration with the ICC and requested an independent ICC Court appointment. A28 maintained that it had a unilateral appointment right, and purported to appoint an individual AA, as arbitrator.

The ICC Court, relying on Article 12(9) of the ICC Rules, appointed the sole arbitrator itself. A28 subsequently attempted to change its appointee to Mr GM and challenged the ICC Court's decision.

The ICC Court rejected A28's challenge and directly appointed Mr AB as the sole arbitrator under Article 13(4)(a) of the ICC Rules.

A28 applied to the ADGM Court seeking declarations to uphold its unilateral appointment right, remove the ICC-appointed arbitrator, and set aside the ICC Court's decisions.

Analysis

The central question was whether the ADGM Court had jurisdiction to review and set aside the ICC Court's appointment and its subsequent rejection of A28's challenge. A28 argued that the ICC Court's actions breached mandatory provisions of the ADGM Arbitration Regulations, specifically sections 14(6) and 20(2).

The ADGM Court found no inconsistency with these mandatory provisions. The Judge determined that the conflict between A28's unilateral right to appoint the arbitrator and the ICC Court's power to appoint an arbitrator under Article 12(9) of the ICC Rules was a matter of contractual construction. Because the parties agreed to conduct the arbitration under the ICC Rules without explicitly excluding Article 12(9), A28's unilateral right to appoint the arbitrator had to yield to the ICC Court's institutional powers. Since no mandatory ADGM regulations were breached, the Court's supervisory jurisdiction was not engaged, and this issue was decided in favour of B28.

Although not strictly necessary to decide any other issues given the ruling on jurisdiction, the Judge addressed whether the ADGM Court's review was precluded by Article 11(4) of the ICC Rules (which states that ICC Court decisions on arbitrator appointments and challenges are "*final*") or the ADGM Arbitration Regulations. The Judge found that Section 19(2) of the ADGM Arbitration Regulations allows parties to agree on an appointment procedure. Because the parties expressly

	<p>adopted the ICC Rules, including the finality provisions of Article 11(4), the ADGM Court would be precluded from reviewing whether the ICC Court was justified in finding "<i>exceptional circumstances</i>" to appoint the arbitrator under Article 12(9).</p> <p>Conclusion</p> <p>The Court concluded that Mr AB was validly appointed by the ICC Court as the sole arbitrator and dismissed A28's claim.</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.