

**In the name of His Highness Sheikh Tamim bin Hamad Al Thani,  
Emir of the State of Qatar**

**IN THE CIVIL AND COMMERCIAL COURT  
OF THE QATAR FINANCIAL CENTRE  
FIRST INSTANCE CIRCUIT**

13 May 2018

**CASE No: 07/2017**

**OUSSAMA ASSAAD**

**Claimant**

**v**

**NOMURA INTERNATIONAL PLC**

**Defendant**

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**JUDGMENT  
(concerning jurisdiction)**

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**Members of the Court:**

**Justice Robertson  
Justice Kirkham  
Justice Hamilton**

## ORDER

1. The Defendant's jurisdictional challenge succeeds.
  
2. The Court declares that it has no jurisdiction over any dispute arising out of or in connection with the Claimant's work and role in the Defendant's DIFC branch.
  
3. The following paragraphs in the Claimant's Reply dated 31 October 2017 are hereby struck out:
  - 1 – 4
  - 1 – 5
  - 2
  - 3
  - 5 – 1 (b)
  - 5 – 1 (c).
  
4. The words "and the Dubai contract" are hereby struck out from paragraph 5 – 1 (a).

## JUDGMENT

1. The Claimant commenced proceedings on 14 September 2017 seeking recovery from his former employer of various sums claimed to be due as a result of their employment relationship. He was not legally represented and though the thrust of his complaint was clear, it lacked some sophistication. The Defendant immediately responded denying any liability and sought to justify all that had occurred. In response to Directions issued by the Registrar, the Claimant filed and served a Reply. The Reply raised a number of new claims which related to the Claimant's employment by the Defendant in Dubai. In short, the Claimant sought outstanding salaries and severance remuneration, compensation in the sum of USD 15,000,000 for what he alleged constituted unfair dismissal, and exoneration from the reasons given for his unfair dismissal which, the Claimant alleged, has caused damage to his professional reputation.
2. On 26 November 2017, the Defendant filed and served an Application challenging the jurisdiction of this Court to deal with the dispute in as much as it relates to matters arising from the Claimant's contract in Dubai.
3. From the initial pleadings, it appeared that the relationship between the Parties began in 2008/2009 at which time there was an employment contract entered into which eventually included a provision that any disputes were to be dealt with by the Dubai International Financial Centre Courts ('DIFC Courts'). The Claimant responded that at about 2012 there was a fundamental change in their relationship and that he was now a registered employee in Qatar and accordingly the Regulations of the Qatar Financial Centre ('QFC') applied and this Court had jurisdiction. He also maintained that, because in its statement of defence the Defendant had introduced the matter of his dismissal, he was entitled to pursue in the present proceedings claims in relation to his dismissal.
4. There then followed an exchange of further material between the Parties. Whilst that material shed some light on the history of the relationship between the

Parties, the Court considered that there remained substantial gaps in the chronology and detail such that it required further information before it could proceed to determine the jurisdictional objection raised by the Defendant.

5. Consequently, on 14 February 2018, the Court issued detailed Directions which required the Parties to file and serve witness statements and to produce various pieces of identified documentation. In particular, the Directions contained 17 specific questions of fact and 2 questions of law upon which the Court required answers and submissions.
6. In compliance with the Directions, the Defendant, on 14 March 2018, filed and served a lengthy witness statement alongside its legal submissions. The former was prepared and signed by Ms. Rachael Scourfield, an Associate at the law firm Allen & Overy LLP which represents the Defendant in these proceedings. Ms. Scourfield explained in her statement that she was involved in overseeing the search for, and review of, documents on behalf of the Defendant in response to the Court's Directions. She sought to answer, by reference to the documents, each of the 17 questions of fact posed and annexed to her statement a total of 87 exhibits in support.
7. The Defendant's legal submissions distinguished between two parts of the Claimant's claim. Insofar as the 'initial claim' was concerned (which concerned the Claimant's contention that he was transferred from Dubai to Qatar to occupy a post in the QFC in consideration of a separate monthly salary) the Defendant did not raise any jurisdictional objection. However, in the Claimant's Reply, he had raised additional matters which appeared to relate to his period of work in Dubai. Insofar as these 'new claims' were concerned, the Defendant raised objection in relation to the jurisdiction of the Court to hear the matter. Essentially, it argued that the Claimant's place of employment for the duration of his employment with the Defendant was in the Dubai International Financial Centre ('DIFC'), that the law governing the employment contract was that of the DIFC and that the DIFC Courts had exclusive jurisdiction to determine any dispute.
8. On the same day, the Claimant also filed and served his response to the Court's Directions. This comprised a two page handwritten document in Arabic. It sought

to answer a few, but not all, of the questions posed by the Court but did not deal with the legal issues relating to jurisdiction.

9. On 22 March 2018 the Court issued further Directions which required the Claimant to amend his witness statement so as to include a statement of truth as required by the Regulations and Procedural Rules of the Court. It also gave the Claimant an opportunity to respond to the lengthy witness statement of Ms. Scourfield. The Directions required a witness statement to be obtained from a Mr. Arshad Ghafur who, at the material times, had been employed by the Defendant. There appeared to be a dispute between the Parties as to the authenticity of a document which purported to bear his signature. Finally, the Directions set a hearing date in order to determine the jurisdictional challenge.
10. On 3 April 2018, the Defendant filed and served a witness statement of Mr. Ghafur. Suffice it to say, for present purposes, that Mr. Ghafur did not accept that he was the author of the aforementioned document.
11. The Claimant filed and served a further statement on 5 April 2018. That statement criticised the witness statement of Ms. Scourfield, essentially saying that she was a lawyer paid by the Defendant to represent its interests and much of what she had recorded was hearsay. The Claimant also reiterated observations he had made previously about the contractual relationship between the Parties and requested the Court to compel the attendance of a particular witness who was still in the employ of the Defendant. Finally, in respect of Mr. Ghafur, the Claimant disputed the truthfulness of his witness statement and requested the Court to submit the document in question to forensic examination by a suitably qualified expert.
12. The Claimant was unrepresented before us. Mr. Francis appeared for the Defendant which, as the Applicant to strike out part of the claim, had the onus of proof. Both appeared by video link.
13. Ms. Scourfield affirmed her witness statement before the Court and was subject to some cross examination by the Claimant and some questioning by the Court. Mr. Ghafur was not part of the hearing and as his witness statement was seriously challenged by the Claimant we did not have regard to it in our determination.

14. Despite many directions, requests and encouragements, the Claimant had never filed a witness statement in terms of the Regulations. It appeared that it was not easy for the Claimant to differentiate between assertions of fact and legal submissions. We had him affirmed and he duly attested to the truth of all he had written in the past in the case and in what he was saying in the hearing.
15. It soon became apparent before us that there were additional aspects to the Claimant's case and nuances that had not been readily apparent from the available pre hearing material.
16. In broad summary the Claimant submitted that in or about May 2012 the written contract which he had with the Defendant since 2008/2009 was superseded by two oral contracts: one in respect of the Claimant's work in the Dubai branch of the Defendant and another in respect of work in Doha. Although there was not total clarity the former seemed to be on similar terms to the prior written contract and the latter in terms outlined in a letter bearing the signature of Mr. Ghafur which said:

*15 May 2012*

*Qatar Financial Centre- Doha, Qatar*

*Administration of Government Relations*

*Dear Manager,*

*Greetings...*

***Subject: Employee Appointment Letter***

*Kindly be informed that Mr. Osama Asaad has been appointed as an executive manager of the Company. Therefore, we confirm the following information:*

<b><i>Employee's Name</i></b>	<b><i>Osama Asaad</i></b>
<b><i>Nationality</i></b>	<b><i>Lebanese</i></b>
<b><i>Passport Number</i></b>	<b><i>RL 1251919</i></b>
<b><i>Profession</i></b>	<b><i>Executive Manager</i></b>
<b><i>Month Salary</i></b>	<b><i>QAR 55,000 (Fifty-five thousand Qatari riyals)</i></b>
<b><i>Appointment Date</i></b>	<b><i>1 May 2012</i></b>

*This monthly salary is based on the total annual salary, which includes allocations and cash allowances of USD 181,319 converted to Qatari riyals according to the current exchange rate.*

*Accordingly, please direct the relevant person to issue a work visa and complete all legal procedures so that the above-mentioned person can obtain a residence visa in accordance with the state's applicable laws.*

*With much appreciation and respect,*

*Arsha Iqbal Ghafour, [sic]*

*[Signature]*

*Chief Executive Officer,*

*NOMURA INTERNATIONAL PLC*

17. The Claimant's case, therefore, was that as from mid-2012 he had a salary entitlement in respect of the Dubai branch of about US\$ 167,000 including various allowances and for Doha about US\$ 181,900. He accepted that he had never received the Doha salary in his hand but said he believed it was just accumulating for him.
18. At an early point in the hearing the Claimant made it abundantly clear that he accepted that any matters relating to the Dubai contracts (which would be both the original written document and what he described as the subsequent unwritten contract for the Dubai branch) had to be dealt with in the DIFC which had exclusive jurisdiction. This was a departure from his earlier claim – see paragraph 3 above – that all his claims could be dealt with in the present proceedings.
19. Throughout the hearing the Defendant rejected any contention that there was anything, apart from the written contract of employment first entered into about 2009 but modified from time to time, which covered their total relationship. This was in the exclusive jurisdiction of the DIFC. The Defendant however accepted that the question of whether there was a separate contract for work in the Doha

branch was properly a matter for this Court, as were its terms and the operation and application of it.

20. We make no finding as to whether the parties reached an oral agreement in 2012 following which there were in place two contracts of employment, one for Dubai and one for Qatar, as alleged by the Claimant. That is a matter for the substantive hearing which will follow this application and which will deal with the merits of the Claimant's initial claim.
21. The documents demonstrate that the Claimant's contract of employment for his role as Public Relations Officer based in the Defendant's DIFC branch was recorded in a letter from the Defendant dated 28 January 2009. The letter made reference to an Employee Handbook containing the terms of the employment contract. The Handbook noted that it was "not a static document" and that the information contained in it would be subject to modification from time to time.
22. During the course of the Claimant's employment by the Defendant, between 2008/9 and 2016, the Employee Handbook was modified on three occasions, namely in July 2009, April 2012 and July 2014. The July 2009 and July 2014 versions (V1 and V3, respectively) include on the front cover the words: "This Handbook is regularly updated. The most up to date version can be found in the Human Resources department and on the Intranet."
23. Version 1 notes that the Defendant reserves the right to vary the terms and conditions of employment as set out in the Handbook from time to time in such manner and in such circumstances as the Defendant might require. It also provides that the employment is subject always to the DIFC Law no. 4 of 2005, namely the DIFC Labour Law.
24. Section B in V3 sets out the Defendant's employment rules. It states: "This Employee Handbook and any dispute arising under it shall be governed and construed in accordance with the laws of the Dubai International Financial Centre (DIFC) and the parties submit to the exclusive jurisdiction of the courts of the DIFC."



25. As set out earlier, the Claimant readily accepted that these Handbooks were available to all employees, wherever in the world they might be based. In our discussion with him he accepted that his employment in respect of his role in the Defendant's Dubai office was subject to the laws and jurisdiction of the DIFC Courts. He also accepted that issues arising from his work in the Dubai branch should be dealt with in Dubai.
26. We are satisfied that the Claimant was aware that the Handbook might be updated from time to time and how he could access this. We conclude that the Claimant was or had the ability to become sufficiently aware of the content of each version of the Handbook in place during the period of his employment, including V3 which contains an express exclusive jurisdiction clause.
27. We conclude therefore that the provisions of the Handbook that the employment contract was subject to the laws of the DIFC and to the exclusive jurisdiction of the Courts of the DIFC were incorporated into the employment contract between the Claimant and Defendant.
28. Although we make no finding as to the Claimant's claim that he entered into an oral contract with the Defendant as regards a role in Qatar, we observe that the documentary evidence filed by the Defendant indicates that, throughout the time that the Claimant worked for the Defendant, he was in receipt of housing allowances for residence in the UAE, that he appears to have resided in the UAE, and that he received allowances for schooling for his children in the UAE. The documentary records also indicate that the Claimant's visits to Qatar were limited to a handful of days in the relevant period: probably no more than 4 days in 2014, and five days in 2015. Indeed, in an internal email dated 14 December 2015 from the Defendant's Ms. Abdul-Hye to Ms. Clark, and which was copied to the Claimant, Ms. Abdul-Hye referred to visa requirements for Qatar for the Claimant, and stated that, as the Claimant had stayed out of Qatar for 319 days, this risked his being banned from Qatar for at least a year. These documents demonstrate that the Claimant's work and role between 2008/9 and 2016 were predominantly based in the Defendant's Dubai office.

29. It follows that the Claimant's employment relationship with the Defendant, so far as his role and work in Dubai were concerned, was subject to the laws and exclusive jurisdiction of the DIFC Courts. That is the case whether, as the Claimant contends, his Dubai contract from 2012 was an oral contract or, as the Defendant contends, there was at all times a written contract between them and the Claimant as regards his role and work in Dubai.
30. We conclude therefore that any dispute between the parties arising out of or in connection with the Claimant's work and role in the Defendant's DIFC office is subject to the laws of the DIFC and to the exclusive jurisdiction of the DIFC Courts. It follows that this Court has no jurisdiction over the Claimant's work and role in the Defendant's DIFC branch, including the matters set out in the following paragraphs of the Claimant's Reply dated 31 October 2017: paragraphs 1-4, 1-5, 2, 3, 5-1 (b) 5-1 (c) and the Dubai contract referred to in paragraph 5-1 (a). Those paragraphs and references must be struck out.
31. There remains outstanding the Claimant's claim as to an agreement that he be transferred to Qatar under a new contract. We shall shortly issue directions as to procedural steps to be taken to prepare for a hearing of that claim.
32. The question of costs was not raised in the hearing and can be addressed at a later date.

By the Court,

  
Justice Bruce Robertson



**Representation:**

The Claimant was self-represented.

The Defendant was represented by Mr. Yacine Francis of Allen & Overy LLP (Dubai Branch).