

# Arbitration Final Award: Can an Arbitrator Change the Decision After the Award is Published?

■ Azadeh Meskarian



dispute arose between Union Marine Classification Services (“Union Marine”) a Dubai based company, and the Government of the

Union of Comoros (the “Government”) in respect of a commercial outsourcing contract (the “Agreement”) entered into in 2007 under which Union Marine was appointed to carry out maritime administration on behalf of the Government, including the registration of vessels under the Comoros flag. The Government sought to cancel the contract alleging breach by Union Marine and for a minimum monthly payment for the relevant period as well as an order for account and damages. The dispute was referred to a well-known maritime arbitrator, sitting as a sole arbitrator in London.

After a full hearing, the Arbitrator published an award in which he held that the Government itself was in repudiatory breach of the Agreement. He dismissed the Government’s monetary claim and reserved jurisdiction to consider the issue of costs (the “Award”). After the Award was published the Government wrote to the Arbitrator complaining of certain errors.

The Government subsequently applied under s57(3)(a) of the Arbitration Act 1996 (the “Act”) for the correction or clarification of the errors complained of. Section 57(3) of the Act permits the

Arbitrator to correct an award or make an additional award where it has made any accidental mistake, omission or error in its award. Pursuant to this application, the Arbitrator admitted that he had made an error and published an amended award (the “Amended Award”).

Consequently Union Marine made an application to the English Commercial Court under s67(1)(a) and (b) of the Act seeking an order setting aside the Amended Award on grounds that having published his final Award, the Arbitrator had become functus and had no jurisdiction to publish an amended award.

Union Marine contended that the undetermined issues raised by the Government had been dealt within the Award and that the Award expressly dismissed the Government’s counterclaim. Therefore, the Arbitrator had no jurisdiction to change his decision in his original award and publish an amended award.

In a recent Judgment, the Court upheld the Arbitrator’s power to amend the Award based on the recognition of the principle underlying the Arbitration Act requiring the Court to be reluctant to interfere in the arbitral process, leaving room for that process to correct itself.

The Court also held that Union Marine’s application could not be made under s67 of the Act which applied when the Arbitrator

had no jurisdiction, and that since Union Marine was disputing the Arbitrator’s correction of an award under s57, this could only be determined under s68(2)(b) of the Act providing for the setting aside of an award on grounds of serious irregularity when the constituted tribunal exceeds its powers. The judgment is reported at *Union Marine Classification Services LLC v The Government of the Union of Comoros* [2015] EWHC 508 (Comm). [W](#)



**Azadeh Meskarian** is a solicitor at Zaiwalla & Co LLP and currently handles and advises clients on various commercial and civil disputes in the County Court and the High Court of England and Wales.



Zaiwalla & Co  
solicitors

**ZAIWALLA & CO.**

Chancery House, 53/64 Chancery Lane London  
WC2A 1QS, DX: 42 Chancery Lane