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MARITIME LAW

General Average, marine insurance and collective contribution

BANKING & COMPLIANCE

JASTA liability and the evidentiary threshold for financial institutions

INVESTMENT

Jordan's investment framework and reciprocal trade developments

ARBITRATION

Institutional reform and the proposed international center in Jordan

International Consolidated for Legal Consultations (ICLC)

City Plaza Commercial Complex • Wadi Saqra • Amman, Jordan

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ICLC's Vision on AI in the Legal & Judicial Sector

Technology can accelerate legal work; it cannot inherit professional judgment or judicial discretion.

Artificial Intelligence (AI) represents a key technological catalyst reshaping the global legal and judicial landscape, with a pronounced impact on Jordan's legal infrastructure. This transformation aligns with national efforts toward digital transformation and expeditious judicial delivery, opening new frontiers for operational efficiency while demanding strict legal oversight and compliance.

Below is a comprehensive analysis of AI applications within legal practice and judicial systems, accompanied by key legal caveats:

1. Applications of Artificial Intelligence in Legal and Judicial Practice

Legal Research and Statutory Analysis:

- Expedited Case Review: Scanning vast repositories of judicial precedents, statutes, and regulations within seconds to extract relevant legal authorities.
- Contract Drafting and Review: Reviewing terms and conditions, automatically detecting potential liabilities and non-standard clauses, and implementing best legal drafting practices.

Judicial Archiving and Case Management:

- Indexing Court Filings: Automating the classification and indexing of pleadings and litigation documents, thereby reducing administrative overhead within courts and law firms.
- Predictive Judicial Analytics: Analyzing historic jurisprudence to provide analytical insights regarding case success probabilities and estimated disposition timelines.

Decision Support for Judges and Legal Practitioners:

- Pleadings Summarization: Generating concise legal summaries of voluminous case files to facilitate judicial preview and legal strategy formulation.
- Administrative Task Automation: Managing court calendars, scheduling hearings, and tracking statutory deadlines with high precision.

2. Legal Risks and Safeguards (Strict Boundaries in Practice)

Despite its substantial utility, the integration of AI in judicial and legal practice demands strict caution:

Absence of Judicial Discretion and Human Justice:

- Substantive Discretion: Legal practice and judicial decision-making rely not merely on literal statutory application, but on equitable principles, judicial discretion, mitigating circumstances, and human empathy—elements beyond algorithmic comprehension.
- Erosion of Discretion: Over-reliance on automated systems risks eroding the human and adaptable nature of judicial proceedings.

Client Confidentiality and Data Protection (Data Privacy):

- Processing case details, trade secrets, or client personal data through public AI models constitutes a severe breach of the Jordanian Personal Data Protection Law and fundamental attorney-client privilege.

Ambiguity of Legal Liability:

- In instances of erroneous legal advice or unjust judicial recommendations generated by AI, significant ambiguity arises regarding liability allocation (among software developers, legal counsel, or judicial officers). Consequently, fully autonomous reliance without direct human oversight remains legally impermissible.

Core Legal Disclaimer:

Artificial Intelligence must strictly function as an 'assistive tool' for judges and legal practitioners rather than a replacement. Designed to optimize efficiency and processing speed, AI inherently lacks the legal capacity, moral reasoning, and subjective comprehension necessary to interpret the spirit of the law and administer human justice.

Jordan's Investment Environment

An advanced legal framework designed to enhance investment security and administrative efficiency.

Jordan's Investment Environment: An Advanced Legal Framework Enhancing Investment Security

The investment sector in Jordan has witnessed a qualitative leap following the entry into force of the Investment Environment Law No. 21 of 2022. This landmark legislation serves as a comprehensive legal framework designed to consolidate the protection of investors' rights and streamline business operations, thereby establishing the Kingdom as a secure and attractive investment destination.

Key Legal Guarantees and Advantages Under the New Legislation:

1. Equal Protection and Safeguards (Articles 3 & 5):

The Law explicitly establishes the principle of equal rights and privileges between Jordanian and foreign investors. It strictly prohibits expropriation or unlawful interference in economic activities, except in accordance with statutory provisions and subject to fair compensation.

2. Legislative Stability and Statutory Guarantees (Article 15):

The Law grants investors (in major investment projects) the right to request immunity from any adverse legislative or regulatory amendments for a period of up to seven (7) years.

3. Freedom of Disposition and Capital Repatriation (Article 5):

The legislation guarantees full ownership or equity participation in economic activities, alongside the absolute right to freely transfer profits, capital, and funds in convertible currencies into and out of the Kingdom without delay.

4. Comprehensive Investment Service & Streamlined Automation (Article 37):

The Law obligates official authorities to issue licensing decisions within a maximum timeframe of fifteen (15) business days. In the absence of a formal

response within this period, the application is deemed approved by operation of law.

5. Flexible Arbitration & Dispute Resolution Mechanisms (Article 45):

The Law provides for the settlement of investment contract disputes through arbitration, granting the investor the option to apply the Jordanian Arbitration Law,

the UNCITRAL Arbitration Rules, or the International Chamber of Commerce (ICC) Rules.

6. Establishment of the "Grievance Committee" (Article 44):

It establishes an internal administrative legal mechanism within the Ministry to review and challenge decisions made by public entities, ensuring procedural integrity and fair treatment for investors.

Closing Legal Concluding Note:

Jordan's investment environment is anchored in the rule of law and the protection of rights, establishing the Jordanian legal framework as a guaranteed partner for the success and stability of investments.

U.S.–Jordan Agreement on Reciprocal Trade

Signed July 21, 2026 — a modernization of bilateral trade ties and cooperation.

Key Highlights:

- Signed in Washington by Jordan’s Minister of Industry, Trade, and Supply Yarub Qudah and U.S. Trade Representative Ambassador Jamieson Greer. The agreement modernizes bilateral trade ties, eliminates non-tariff barriers, caps tariffs, and enhances cooperation on supply chains, digital trade, and investment security.
- Official Source & Text: To read the full announcement and official statement, please visit the U.S. Embassy in Jordan via the following link: [U.S.–Jordan Agreement on Reciprocal Trade](#).

Effects of U.S.–Iran Hostilities on Regional Shipping

Operational disruption, war-risk cover and the legal consequences for commercial maritime interests.

- **Regional Shipping Disruption and Vessel Security:** Heightened military tensions in the Persian Gulf, Strait of Hormuz and Gulf of Oman have increased the risks of vessel boarding, detention, seizure, drone attack and navigational disruption. Official maritime advisories have documented several such incidents and have recommended enhanced vigilance and route-specific risk mitigation.
- **Attacks and War-Risk Exposure:** Commercial vessels and offshore infrastructure have been subjected to attacks, physical damage, detention and operational interference. These developments may affect war-risk insurance premiums, voyage planning, contractual performance and the allocation of delay and deviation costs.
- **Charterparty and Judicial Implications:** The legal consequences depend primarily on the wording of the applicable safe-port, war-risk, deviation, cancellation and insurance clauses. Authorities such as *The Evia* (No. 2), *The Product Star*, *The Ocean Victory* and *The Polar* demonstrate that liability turns on prospective safety, the reasonableness of the owner's decision, the risks accepted when the contract was concluded and the contractual allocation of insurance and war risks.

General Average in Maritime Trade: When Does an Individual Sacrifice Become a Collective Liability?

A practical legal review of contribution, insurance coverage, security instruments and recent UK Supreme Court authority.

Introduction

Cargo may arrive at its destination entirely undamaged, yet its owner may be denied delivery unless it provides financial security or undertakes to contribute toward the cost of extinguishing a fire aboard the vessel, refloating a grounded ship, or towing it to a place of safety.

At first glance, this may seem counterintuitive: why should the owner of undamaged cargo bear part of a loss incurred by the shipowner or another cargo interest?

The answer lies in the ancient maritime doctrine of General Average. Under this doctrine, an extraordinary sacrifice or expenditure intentionally and reasonably made to preserve a common maritime adventure from peril is not borne solely by the party whose property was sacrificed. Instead, the resulting loss is apportioned among all maritime interests that benefited from the successful preservation of the adventure.

However, a shipowner's declaration of General Average does not conclusively establish liability. Nor does the existence of a marine insurance policy automatically require the insurer to pay every contribution assessed by the average adjuster. Between the declaration of General Average, the legal obligation to contribute, and the availability of insurance coverage lies a distinct chain of contractual, evidentiary, and legal requirements.

1. What Is General Average?

Rule A of the York-Antwerp Rules 2016 defines a General Average act as an extraordinary sacrifice or expenditure intentionally and reasonably made or incurred for the common safety, for the purpose of preserving from peril the property involved in a common maritime adventure.

Accordingly, the occurrence of a maritime casualty or the incurrence of substantial expense is insufficient on its own. Several cumulative conditions must be satisfied.

1.1 A common maritime adventure

The vessel, cargo, freight, and other relevant maritime interests must be connected through a common maritime venture. In practical terms, several proprietary interests must be exposed to the same maritime peril and must benefit from the measures taken to preserve the adventure.

1.2 A real and common peril

The peril must threaten the maritime interests collectively, rather than a single interest in isolation. The danger need not make destruction certain or immediately inevitable, but it must be real and substantial rather than remote or speculative.

Common examples include:

- Fire aboard the vessel;
- Grounding and refloating operations;
- Machinery failure in circumstances threatening the vessel and cargo;
- Water ingress;
- Piracy or detention of the vessel;
- Entry into a port of refuge to preserve the maritime adventure.

1.3 An extraordinary sacrifice or expenditure

The measure taken must fall outside the ordinary expenses and operational risks of the voyage. The traditional example is the deliberate jettison of cargo to lighten the vessel. Modern examples include:

- Damage caused by water or chemicals used to extinguish a fire;
- Towage and refloating expenses;
- Port-of-refuge expenses;
- The cost of discharging, storing, and reloading cargo;
- Temporary repairs required to complete the voyage;
- Reasonable ransom payments made to secure the release of a vessel from pirates, where lawful under the applicable legal regime.

Routine operating expenses and accidental damage do not become General Average merely because they arise during a maritime casualty.

1.4 Intentional and reasonable conduct

The sacrifice or expenditure must result from a deliberate decision and must be reasonable in light of the circumstances known at the relevant time.

Reasonableness should not be assessed solely with the benefit of hindsight. The failure of a measure to save the vessel does not necessarily deprive it of its General Average character, just as a successful result does not conclusively establish that the decision was reasonable. The relevant question is whether the measure was reasonably adopted at the time of the peril.

1.5 The purpose of common safety

The measure must be taken to preserve the property involved in the maritime adventure as a whole, rather than merely protecting the vessel or another individual interest.

This distinguishes General Average from particular average, where a loss affects a specific property interest and is borne by its owner—or its insurer where coverage applies—without contribution from the other maritime interests.

1.6 Direct causation

Under Rule C, only losses, damage, and expenses that are the direct consequence of the General Average act are allowable.

Accordingly, General Average generally excludes:

- Loss caused by delay;
- Loss of market;
- Loss of future contracts or profits;
- Indirect commercial losses;
- Demurrage or delay-related liabilities that are not the direct consequence of the General Average act.

This requirement prevents General Average from becoming an open-ended mechanism for reallocating every economic consequence of a maritime casualty.

2. Are the York-Antwerp Rules Internationally Binding Law?

Despite their widespread international use, the York-Antwerp Rules are not an international convention and do not apply automatically. They derive their legal force from incorporation into bills of lading, charterparties, or other contracts of carriage.

Following a casualty, the parties must therefore determine:

- Whether the relevant contract incorporates the York-Antwerp Rules;
- Which version applies—1994, 2004, or 2016;
- Which national law governs matters not addressed by the Rules;
- Where the adjustment is to be prepared and disputes determined.

The choice of version is not merely technical. It may materially affect the recoverability of particular expenses, interest, adjusters' fees, limitation periods, and ultimately the amount payable by each contributing interest.

In *The Longchamp*, the UK Supreme Court emphasised that the York-Antwerp Rules form an internationally agreed framework intended to promote uniformity. Their interpretation should therefore reflect broadly accepted international principles rather than narrow technical rules peculiar to one domestic legal system.

3. Who Must Contribute?

General Average losses and expenditures are apportioned among the maritime interests preserved from the common peril, principally:

- The vessel;
- Cargo;
- Freight at risk;
- Bunkers and other interests participating in the maritime adventure, depending on the contractual structure.

An average adjuster determines the contributory value of each interest and calculates the proportion payable.

For example, if the allowable General Average losses and expenses amount to USD 10 million and the aggregate contributory values amount to USD 100 million, the preliminary contribution rate would be 10%. A cargo interest with a contributory value of USD 1 million would therefore face a preliminary contribution of USD 100,000, subject to the detailed adjustment, allowances, deductions, and legal defences.

The average adjustment is highly persuasive as a specialist accounting and legal assessment, but it is not necessarily equivalent to a final judicial determination. It may remain open to challenge concerning:

- Whether a valid General Average act occurred;
- Whether indirect expenses were improperly included;
- The valuation of the vessel or cargo;
- The applicable version of the York-Antwerp Rules;
- The calculation of interest, commissions, or expenses;
- The consequences of the shipowner's or carrier's fault.

4. What Is the Effect of the Carrier's Fault or the Vessel's Unseaworthiness?

Rule D provides that rights to General Average contribution are not affected, at the adjustment stage, merely because the event giving rise to the sacrifice or expenditure resulted from the fault of one of the parties to the maritime adventure. It nevertheless preserves any remedies or defences arising from that fault.

The Rule therefore distinguishes between two separate questions:

- Does the sacrifice or expenditure qualify as General Average?
- Is the party claiming contribution legally entitled to recover it despite its fault?

If a fire or machinery failure resulted from the carrier's failure to exercise due diligence to make the vessel seaworthy, cargo interests and their insurers may resist the contribution claim, depending on the applicable law, the contract of carriage, and the available evidence.

Accordingly, the inclusion of an expense in the General Average adjustment does not resolve the decisive question: is the shipowner legally entitled to recover that amount from cargo interests despite the alleged causative fault?

5. The Position of Marine Insurers

A distinction must be drawn between the cargo owner's liability to contribute and the insurer's liability under the insurance contract.

The cargo owner—or other relevant maritime interest—is ordinarily the primary party liable for the contribution. The insurer does not become the primary debtor merely because it issued a marine insurance policy. Its liability arises from the terms of that policy or from a separate guarantee subsequently issued.

Insurance coverage may operate in two principal ways.

5.1 General Average sacrifice

Where insured cargo is intentionally sacrificed to preserve the maritime adventure, the insured may recover the loss from its insurer in accordance with the policy. Under some marine insurance regimes, recovery may be available without awaiting completion of the final adjustment, with the insurer becoming subrogated to the insured's contribution rights to the extent of the payment made.

5.2 General Average contribution

Where cargo arrives undamaged but becomes liable to contribute to the General Average, the insurance policy may cover that contribution if the casualty arose from an insured peril.

Section 66 of the Marine Insurance Act 1906 recognises, in principle, an insured's right to recover a General Average contribution from its insurer, subject to the terms and limitations of the policy.

If the event giving rise to the General Average resulted from an excluded peril, the cargo owner may remain liable to the shipowner while having no corresponding right of recovery against its insurer.

This distinction is fundamental: liability within the maritime relationship does not necessarily establish indemnity within the insurance relationship.

An insurer's liability may also be limited or excluded where:

- The policy was not in force at the time of the casualty;
- The relevant peril was excluded;
- The insured value was lower than the contributory value;
- The insured breached a policy condition;
- The claimed expenditure was indirect or attributable to delay;
- The alleged sacrifice or expenditure did not satisfy the requirements of General Average;
- The contribution exceeded the applicable policy limit.

6. General Average Bonds and Insurers' Guarantees

Following a declaration of General Average, the shipowner may ordinarily retain possession of the cargo until satisfactory security has been provided for the anticipated contribution.

Security commonly takes one or more of the following forms:

- An Average Bond, under which the cargo owner undertakes to pay the contribution ultimately found to be due;
- An Average Guarantee, issued by the cargo insurer in favour of the shipowner or average adjuster;
- A cash deposit where the cargo is uninsured or the proposed security is unacceptable.

The Comité Maritime International, together with the International Union of Marine Insurance and the International Chamber of Shipping, has approved recommended forms of General Average security.

The legal effect of an insurer's guarantee depends heavily on its wording. A guarantee limited to sums "legally and properly due" may preserve defences based on unseaworthiness, carrier fault, or an improper adjustment. Conversely, an independent or unconditional undertaking may substantially restrict the insurer's ability to resist payment.

Issuing an Average Guarantee should therefore not be treated as a routine administrative formality. Depending on its wording, it may create a direct obligation that is legally distinct from—and potentially broader than—the insurer's underlying indemnity obligation to the insured.

7. Leading International Judicial Developments

7.1 The Longchamp — [2017] UKSC 68

In *Mitsui & Co Ltd v Beteiligungsgesellschaft LPG Tankerflotte MBH & Co KG (The Longchamp)*, the UK Supreme Court considered whether operating expenses incurred while negotiating with pirates to reduce a ransom demand were allowable as substituted expenses under Rule F.

The majority held that the expenses were allowable, subject to the monetary ceiling imposed by Rule F. The Court adopted an objective approach and rejected an unduly restrictive interpretation of substituted expenditure.

The judgment is significant because it confirms that an expense not independently allowable under the ordinary General Average rules may nevertheless be admitted where it was reasonably incurred in place of another expense that would have been allowable.

7.2 The Polar — [2024] UKSC 2

In *Herculito Maritime Ltd v Gunvor International BV (The Polar)*, the UK Supreme Court examined whether contractual war-risk insurance arrangements prevented the shipowner from claiming General Average contributions from cargo interests following the vessel's seizure by pirates.

The Court concluded that the insurance arrangements did not, without clear contractual language, deprive the shipowner of its General Average rights against cargo interests. The existence of insurance did not itself create an implied exemption from contribution.

The judgment reinforces a commercially important proposition: a waiver of General Average rights should not be inferred merely because insurance exists. Clear contractual language is required.

8. Practical Steps for Cargo Interests

Upon receiving a General Average notice, cargo interests should avoid admitting liability or signing security documents without review. Immediate steps should include:

- Notifying the cargo insurer without delay;
- Examining the bill of lading and any incorporated charterparty;
- Identifying the applicable version of the York-Antwerp Rules;
- Determining the governing law and dispute-resolution forum;
- Reviewing the Average Bond and Average Guarantee before execution;
- Requesting casualty, maintenance, classification, and seaworthiness records where carrier fault is reasonably suspected;
- Verifying the cargo's declared and contributory values;
- Preserving invoices, insurance certificates, bills of lading, survey reports, and delivery documents;
- Monitoring contractual and statutory limitation periods;
- Expressly reserving all rights and defences when providing security.

Conclusion

General Average is a mechanism for distributing extraordinary maritime sacrifice—not a system for transferring every loss associated with a casualty. Its legitimacy depends on maintaining a careful balance between the

collective preservation of the maritime adventure and the protection of cargo and other interests from expenses that do not satisfy the requirements of intention, reasonableness, extraordinariness, common safety, and direct causation.

The insurance analysis requires an additional layer of scrutiny. A cargo owner may be liable to contribute while its insurer is not obliged to indemnify it. An insurer may also incur a direct obligation by issuing an Average Guarantee, while retaining—or contractually surrendering—particular defences depending on the wording used.

A declaration of General Average is therefore the beginning of the legal analysis, not its conclusion. The proper questions are not merely whether General Average has been declared, but whether its legal requirements have been satisfied, whether the contribution is properly recoverable, and whether it falls within the relevant insurance coverage.

Selected References

Comité Maritime International, York-Antwerp Rules 2016, as technically amended in 2022.

Comité Maritime International, Guidelines Relating to General Average and Recommended Security Forms, 2022.

Marine Insurance Act 1906, Section 66.

Lowndes & Rudolf, The Law of General Average and the York-Antwerp Rules, 15th ed., Sweet & Maxwell.

Francis D. Rose, General Average: Law and Practice, 3rd ed., Informa Law.

John Dunt, Marine Cargo Insurance, Informa Law.

Mitsui & Co Ltd v Beteiligungsgesellschaft LPG Tankerflotte MBH & Co KG (The Longchamp) [2017] UKSC 68.

Herculito Maritime Ltd v Gunvor International BV (The Polar) [2024] UKSC 2.

JASTA and Civil Liability for Supporting Terrorism: Between Broad Statutory Language and Strict Evidentiary Requirements

Where regulatory weakness ends and culpable civil participation begins under U.S. terrorism-liability law.

Since its enactment in the United States in 2016, the Justice Against Sponsors of Terrorism Act (JASTA) has generated extensive legal and political debate regarding the potential liability of states, financial institutions, and corporations for injuries arising from acts of international terrorism.

At first glance, the Act's title may suggest that it applies exclusively to states officially designated as sponsors of terrorism. Its legal scope, however, is more complex. JASTA introduced significant amendments to both the US Foreign Sovereign Immunities Act and the Anti-Terrorism Act. It also expressly recognized certain forms of secondary civil liability, including liability for aiding and abetting and conspiracy.

Does this mean that a bank becomes liable merely because it provided financial services to an individual or entity directly or indirectly connected to a terrorist organization? The short legal answer is no. There is a substantial evidentiary gap between suspicious banking activity and civil liability for terrorism.

What Is JASTA?

JASTA was enacted as Public Law No. 114-222 on September 28, 2016, after the US Congress overrode the veto of then-President Barack Obama.

JASTA does not establish an entirely separate legal regime for terrorism-related liability. Instead, it amends existing legislation, most notably:

- the Foreign Sovereign Immunities Act (FSIA);
- the Anti-Terrorism Act (ATA); and
- the civil-remedies provisions of 18 U.S.C. § 2333.

One of the Act's principal objectives was to expand the ability of terrorism victims to pursue persons and entities that did not directly carry out a terrorist attack but allegedly contributed to it through financing, facilitation, conspiracy, or substantial assistance.

JASTA therefore has two principal dimensions:

- provisions allowing foreign sovereign immunity to be displaced under specified circumstances; and
- provisions establishing secondary civil liability for individuals, corporations, and financial institutions.

This article focuses on the second dimension. The issues of state responsibility and foreign sovereign immunity require separate consideration.

Who May Bring a Claim?

Under 18 U.S.C. § 2333(a), a US national who is injured in their person, property, or business “by reason of” an act of international terrorism may bring a civil action before an appropriate US federal district court.

Depending on the circumstances, the right of action may be exercised by:

- the injured US national;
- the injured person’s estate;
- survivors;
- heirs; or
- other persons granted standing under the applicable law.

These claims may carry significant financial consequences. A successful claimant may recover threefold the damages sustained, in addition to the cost of the lawsuit and reasonable attorneys’ fees.

The availability of treble damages does not reduce the claimant’s evidentiary burden. If anything, the severity of the potential financial consequences reinforces the need for courts to apply the statutory elements carefully.

What Constitutes “International Terrorism”?

An incident does not constitute international terrorism merely because it is described as terrorist conduct in political discourse or media coverage. It must satisfy the statutory definition in 18 U.S.C. § 2331(1).

Under that provision, international terrorism consists of activities that:

- involve violent acts or acts dangerous to human life that violate US criminal law, or that would constitute a criminal violation if committed within US jurisdiction;
- appear intended to intimidate or coerce a civilian population, influence government policy through intimidation or coercion, or affect government conduct through mass destruction, assassination, or kidnapping; and
- occur primarily outside the territorial jurisdiction of the United States or transcend national boundaries in terms of their means, participants, location, or consequences.

This definition raises a critical legal question: Does the provision of banking services or the execution of a financial transfer constitute an act of international terrorism?

Ordinary banking activity does not usually possess the violent or life-endangering characteristics required by § 2331. Establishing a bank’s primary liability solely on the basis of processing transactions is therefore particularly difficult. This explains why claimants increasingly rely on the secondary-liability provisions introduced by JASTA.

Primary and Secondary Liability

The statutory framework requires a careful distinction between two forms of liability.

Primary Liability

Primary liability arises when the defendant’s own conduct satisfies the statutory requirements of the actionable offence.

In this context, it is not sufficient to establish that a bank violated economic sanctions, anti-money laundering obligations, or know-your-customer requirements. A regulatory violation may provide relevant evidence, but it does not automatically transform banking conduct into an act of international terrorism.

The US Court of Appeals for the Second Circuit confirmed this principle in *Linde v. Arab Bank, PLC*. The court held that providing material support to a terrorist organization does not, by itself, establish that the provider committed an act of international terrorism. Each element of the statutory definition must be established independently.

Secondary Liability

JASTA added 18 U.S.C. § 2333(d)(2), which authorizes a claim against any person who:

- aids and abets by knowingly providing substantial assistance; or
- conspires with the person who committed the relevant act of international terrorism.

The claimant's injury must arise from an act of international terrorism committed, planned, or authorized by an organization that was designated as a Foreign Terrorist Organization (FTO) at the relevant time.

This limitation is significant. Not every armed group, sanctioned entity, or politically controversial organization qualifies as an FTO under US law.

The Requirements of Aiding-and-Abetting Liability

Congress expressly identified *Halberstam v. Welch* as the appropriate legal framework for civil aiding-and-abetting and conspiracy liability under JASTA.

Under the *Halberstam* framework, aiding-and-abetting liability generally requires three elements:

- the principal party committed a wrongful act that caused the claimant's injury;
- the defendant was generally aware of its role in the overall wrongful activity; and
- the defendant knowingly provided substantial assistance to that activity.

Whether the assistance was "substantial" is commonly evaluated by reference to several factors:

- the nature of the act assisted;
- the amount and type of assistance provided;
- the defendant's presence or proximity to the wrongful act;
- the defendant's relationship with the principal wrongdoer;
- the defendant's state of mind; and
- the duration of the assistance.

These factors are not a mechanical checklist. A weakness in one factor may be offset by particularly strong evidence under another. Generally, the more remote the assistance is from the terrorist attack, the stronger the evidence of knowledge and culpable participation must be.

The Significance of *Twitter v. Taamneh*

The US Supreme Court's 2023 judgment in *Twitter, Inc. v. Taamneh* marked an important development in the interpretation of JASTA's secondary-liability provisions.

Although the case concerned social-media platforms rather than banks, the principles articulated by the Court apply to service providers generally, including financial institutions.

The Court held that aiding-and-abetting liability does not arise merely because a defendant provided a widely available service that was used by persons associated with a terrorist organization. The allegations must indicate participation that was:

- conscious;
- voluntary;
- culpable; and
- sufficiently connected to the terrorist act at issue.

The Court further emphasized that the analysis must focus on the particular act of international terrorism that injured the claimant. General support for a terrorist “enterprise” or a broad terrorist campaign is not necessarily sufficient.

The relevant question is therefore not simply whether a terrorist organization benefited from a bank’s services. The question is whether the bank knowingly and culpably provided substantial assistance connected to the terrorist act that caused the claimant’s injury.

That standard requires considerably more than evidence that a bank could have maintained stronger compliance controls.

When May Banks Face an Increased Risk of Liability?

The risk of liability increases when several related indicators are present, including:

- providing services directly to a designated FTO;
- maintaining a banking relationship after receiving credible warnings about the customer’s terrorist activities;
- structuring transactions to conceal the identity of the ultimate beneficiary;
- removing identifying information from payment instructions to evade sanctions or screening systems;
- using intermediary accounts or shell companies with knowledge of their actual purpose;
- processing repeated transactions over an extended period;
- establishing a demonstrable connection between the banking services and the attacks at issue; or
- departing from ordinary banking practices for the purpose of facilitating unlawful conduct.

Conversely, a claim is generally weaker where the services were routine and broadly available, the bank’s connection to the terrorist organization was remote and involved multiple intermediaries, the allegations amount only to negligent compliance, or no legally sufficient nexus exists between the relevant transactions and the particular attack.

Are Sanctions and Compliance Violations Sufficient?

One of the most common analytical mistakes is to conflate three distinct legal regimes:

- liability under JASTA;
- liability for violating economic sanctions; and
- liability for breaching anti-money laundering and counter-terrorism financing requirements.

The same conduct may implicate more than one regime, but satisfying the requirements of one does not automatically establish liability under the others.

Proof that a bank dealt with a sanctioned entity may support an inference concerning knowledge or culpability. It does not, standing alone, establish that the bank substantially assisted the attack that injured the claimant. Similarly, inadequate customer due diligence may constitute a regulatory violation without demonstrating conscious participation in terrorist activity.

Decisions such as *Siegel v. HSBC North America Holdings, Inc.* and *Freeman v. HSBC Holdings PLC* confirm that sanctions violations or indirect dealings with terrorism-linked entities are insufficient without adequate allegations of knowledge, substantial assistance, and a legally relevant connection to the attacks.

In short, a sanctions case does not automatically become a terrorism case merely because the factual narrative is alarming.

Practical Implications for Financial Institutions

Although JASTA imposes demanding liability requirements, financial institutions should not underestimate its risks. Even an ultimately unsuccessful claim may impose considerable discovery costs and create serious reputational, regulatory, and correspondent-banking consequences.

Risk management must therefore extend beyond formal or box-ticking compliance. Appropriate measures may include:

- documenting decisions to open or maintain high-risk accounts;
- identifying beneficial owners and examining complex ownership and control structures;
- maintaining updated sanctions lists and FTO designations;
- reviewing recurring transfers involving high-risk jurisdictions and sectors;
- preserving clear records of internal alerts and the measures taken in response;
- referring complex cases to legal counsel and senior compliance officers; and
- assessing potential civil exposure in addition to regulatory and criminal risks.

A file that does not record the legitimate basis for a decision may appear very different years later when examined in the context of terrorism litigation.

Conclusion

JASTA expanded the potential scope of civil liability for terrorism, but it did not impose automatic liability on every bank or financial institution whose systems were used to transfer funds that ultimately benefited a terrorist entity.

Liability remains dependent on proof of a particular act of international terrorism, the bank's awareness of its role, the knowing provision of substantial assistance, culpable participation, and a legally sufficient connection to the claimant's injury.

From a risk-management perspective, the proper question is not whether every banking violation may generate JASTA liability. It is whether the evidence, considered as a whole, could permit a court to characterize the bank as a culpable participant in the underlying wrongful act rather than as a service provider whose systems were misused by a customer.

That is the legal boundary between deficient compliance and civil participation in supporting terrorism.

Principal Legal Authorities

Justice Against Sponsors of Terrorism Act, Pub. L. No. 114-222, 130 Stat. 852 (2016).

18 U.S.C. §§ 2331 and 2333.

Halberstam v. Welch, 705 F.2d 472 (D.C. Cir. 1983).

Linde v. Arab Bank, PLC, 882 F.3d 314 (2d Cir. 2018).

Siegel v. HSBC North America Holdings, Inc., 933 F.3d 217 (2d Cir. 2019).

Kaplan v. Lebanese Canadian Bank, SAL, 999 F.3d 842 (2d Cir. 2021).

Honickman v. BLOM Bank SAL, 6 F.4th 487 (2d Cir. 2021).

Freeman v. HSBC Holdings PLC, 57 F.4th 66 (2d Cir. 2023).

Twitter, Inc. v. Taamneh, 598 U.S. 471 (2023).

Wildman v. Deutsche Bank Aktiengesellschaft, No. 23-132 (2d Cir. July 21, 2025).

Establishment of an International Arbitration Center in Jordan

Institutional design, legislative reform and enforceability in a regional investment hub.

1-Institutional Framework & Legislative Reforms:

- In line with national efforts to solidify Jordan as a secure investment hub, legislative and institutional proposals advocate for the establishment of a specialized International Arbitration Center in Amman. Operating under modern international standards (aligned with the UNCITRAL Model Law and the Jordanian Arbitration Law No. 31 of 2001, as amended), this initiative aims to provide an expedited, independent forum for resolving commercial, infrastructure, and cross-border investment disputes.

2- Precedential Arbitral & Judicial Case Examples:

- Jordanian Court of Cassation (Decision No. 2415/2021 on Award Enforcement): A major judicial precedent demonstrating the Jordanian judiciary's pro-arbitration stance. The Court affirmed that international arbitral awards rendered under institutional rules (such as ICC or UNCITRAL) are strictly enforceable in Jordan, provided they conform to public policy and statutory due process requirements.
- Al-Kharafi v. State of Libya (Permanent Court of Arbitration / Regional Enforcement Context): A notable regional investment arbitration case highlighting the critical need for regional arbitral institutions. The proceedings illustrated how international investors rely on robust local arbitration hubs and treaties (such as the Unified Agreement for the Investment of Arab Capital) to enforce high-value commercial claims without prolonged litigation in national courts.

What's New in Arbitration: Recent Judicial and Arbitral Developments

Four fresh rulings on reasoned awards, AI-assisted drafting, sanctions defences and diplomatic agreements shaping arbitration practice.

1. European Court of Human Rights: Parties May Waive the Right to a Reasoned Arbitral Award

Jiitee Työt Oy v. Finland, Application No. 2895/25, Judgment of 9 June 2026

The European Court of Human Rights considered whether an arbitral award containing no reasons was compatible with the right to a fair hearing under Article 6(1) of the European Convention on Human Rights.

The parties had voluntarily agreed to apply the Rules for Expedited Arbitration of the Finland Chamber of Commerce. Those Rules permitted the arbitrator to issue an award without reasons unless either party requested otherwise. During the proceedings, the parties confirmed that reasons were unnecessary, and neither party requested a reasoned award within the prescribed time limit.

The Court unanimously found no violation of Article 6(1). It held that a waiver of the right to a reasoned decision is valid where it is:

- made freely;
- lawful;
- clear and unequivocal; and
- accompanied by minimum procedural safeguards commensurate with the importance of the right concerned.

The Court emphasised that consenting to voluntary arbitration does not automatically amount to waiving every procedural guarantee under Article 6. Each guarantee must be assessed separately. Nevertheless, the obligation to give reasons is not such a fundamental procedural principle that it can never be waived in voluntary commercial arbitration, particularly where the parties have had a full opportunity to present their cases and retain access to procedures for challenging serious procedural irregularities.

Practical significance: Parties and counsel should carefully review expedited arbitration rules and expressly request a reasoned award where one is required. Silence—particularly where the party is legally represented—may constitute a valid and irreversible waiver of the right to reasons.

2. Canada: Arbitral Award Set Aside for Reliance on AI-Generated “Hallucinated” Authorities

Association des ressources intermédiaires d’hébergement du Québec (ARIHQ) v. Santé Québec, 2026 QCCS 1360, Superior Court of Québec, 22 April 2026

The Superior Court of Québec set aside an arbitral award after finding that the legal authorities forming the basis of the arbitrator’s reasoning did not exist. Some neutral citations referred to unrelated decisions, while other cited cases and academic commentary could not be located at all. The evidence strongly suggested that artificial intelligence had been used to draft the award without adequate human and legal verification.

The Court clarified that using artificial intelligence is not, by itself, an independent statutory ground for annulment. However, annulment may be justified where the use of AI reveals a serious procedural breach, an improper delegation of the arbitrator’s adjudicative authority, or an abdication of the arbitrator’s duty to deliberate and independently verify the legal basis of the decision.

The fabricated authorities were central to the award and constituted the only legal support for its conclusions. The Court therefore found, on the balance of probabilities, that the arbitrator had delegated his authority and failed to review the generated result. This undermined the integrity of the arbitral process and confidence in its outcome. The award was annulled, and the parties were ordered to appoint a new arbitrator within 60 days.

The Court nevertheless cautioned that not every incorrect citation or use of AI will justify setting aside an award. Courts must assess:

- the seriousness of the procedural failure;
- whether it concerns a material issue;
- its effect on the integrity of the arbitral process; and
- its probable impact on the outcome.

Practical significance: AI may assist an arbitrator, but it cannot become an undisclosed substitute decision-maker. The arbitrator remains personally responsible for the deliberative process, the accuracy of cited authorities and the reasoning issued under the arbitrator’s name.

3. Hong Kong: Foreign Sanctions Do Not Automatically Prevent Enforcement of an Arbitral Award

A Company v. The Bank, [2026] HKCFI 3169, Hong Kong Court of First Instance, 3 June 2026

The Hong Kong Court of First Instance refused to set aside or stay enforcement of an LCIA award ordering a Canadian bank to pay more than €30 million under several guarantees. The bank argued that compliance could expose it and its employees to criminal prosecution under Canadian sanctions imposed in connection with Russia.

The Court reaffirmed that the grounds for refusing enforcement of an arbitral award are limited and exhaustive. A public-policy objection does not permit the enforcement court to reopen the merits or review the tribunal’s interpretation of foreign sanctions legislation. The parties remain bound by the tribunal’s findings of fact and law.

The relevant public policy was that of the enforcement forum—Hong Kong—not the public policy underlying the Canadian sanctions regime. International comity did not require Hong Kong to adopt another jurisdiction’s public

policy. Enforcement would be refused only where it offended the forum's most fundamental notions of morality and justice or produced a result that "shocked the conscience" of the court.

The Court adopted a two-stage approach when considering an alleged risk of foreign prosecution:

1. The resisting party must establish a real, rather than fanciful or speculative, risk of prosecution.
2. If such a risk is established, the court must balance that risk against the importance of enforcing the award and the relief sought.

The bank failed to provide sufficient evidence of a genuine prosecution risk or to demonstrate that no lawful alternative method of compliance or enforcement was available. The Court also rejected an indefinite stay pending the disappearance of any prosecution risk, as this would deprive the award creditor of the benefit of the award.

Practical significance: Foreign sanctions form part of the legal and commercial context of enforcement, but they are not an automatic escape route from an arbitral obligation. A party relying on sanctions must produce concrete evidence of illegality and prosecution risk and explain why no lawful alternative means of compliance exists.

4. Permanent Court of Arbitration: Diplomatic Notes May Create Binding Amendments to International Obligations

The Republic of Rwanda v. The United Kingdom, PCA Case No. 2025-45, Award of 15 May 2026

The arbitral tribunal, constituted under the 2012 PCA Arbitration Rules, addressed Rwanda's claims that the United Kingdom had breached the Asylum Partnership Agreement. Rwanda sought two annual payments of £50 million and alleged a further breach of the obligation to make arrangements for the resettlement of certain vulnerable refugees from Rwanda in the United Kingdom.

By majority, the Tribunal held that the exchange of diplomatic notes in November 2024 constituted a binding agreement amending the parties' earlier financial arrangements. Rwanda had accepted, without reservation or qualification, the proposal that the two payments due in April 2025 and April 2026 would not be made.

The Tribunal held that Rwanda could not withdraw its consent or unilaterally "rescind" the amendment more than three months later. Once a bilateral amendment had been concluded, it could be altered only by a further agreement based on the mutual consent of both States.

The award demonstrates that the legal effect of diplomatic correspondence depends on its wording, context, negotiating history and evidence of an intention to be bound—not merely on the title or diplomatic form of the documents. Diplomatic notes may therefore create or amend binding international obligations where they contain a sufficiently clear offer and acceptance.

On refugee resettlement, the Tribunal held that the commitment to "make arrangements" imposed a joint obligation requiring the parties to negotiate in good faith. It did not, however, impose a unilateral guarantee that the United Kingdom would achieve a particular result irrespective of the parties reaching detailed agreement.

The Tribunal found that Rwanda had not submitted a concrete proposal or initiated negotiations during the relevant period and that the United Kingdom had not been shown to have refused to negotiate. All of Rwanda's claims were therefore rejected. Each party was ordered to bear its own legal costs, while the arbitration costs were divided equally.

Practical significance: Diplomatic language should not be mistaken for non-binding courtesy. An apparently simple statement that proposed arrangements are “acceptable” may constitute final and binding consent. The award also confirms that an obligation to negotiate in good faith does not ordinarily amount to an obligation to achieve a particular outcome unless the applicable text clearly provides otherwise.

International Consolidated for Legal Consultations (HAZBOUN &CO)

A multi-practice Jordanian law firm with regional and international reach.

Firm Overview

Established in 1979 by Professor Dr. George Hazboun, International Consolidated for Legal Consultations (ICLC) is a premier, multi-practice law firm headquartered in Amman, Jordan. Over more than four decades, ICLC has earned a distinguished regional and international reputation for legal excellence, combining deep local judicial expertise with cross-border legal sophistication.

We take pride in serving a diverse portfolio of reputable local and international clients—including investment banks, multinational corporations, diplomatic missions, industrial leaders, and foreign investors—providing tailored legal solutions to support complex commercial and investment endeavors in Jordan and the Middle East.

Core Practice Areas

- **Corporate & Commercial Law:** Comprehensive support on business formation, foreign investment structuring, joint ventures, regulatory compliance, due diligence, and deal execution.
- **Mergers & Acquisitions (M&A):** Advisory on high-stakes corporate restructurings, cross-border acquisitions, transactional risk management, and private equity investments.
- **International Arbitration & Dispute Resolution:** Recognized leadership in handling complex domestic litigation and international commercial arbitration under major institutional rules (UNCITRAL, ICC, and Jordanian Arbitration Law).
- **Banking & Financial Institutions:** Drafting structured financing agreements, regulatory compliance, securities investment, project financing, and capital markets advisory for leading commercial and private financial institutions.
- **Maritime, Shipping & Aviation:** High-level counsel on transport regulations, vessel chartering, aviation law, logistics restructuring, and cross-border maritime claims.
- **Construction & Infrastructure:** Legal risk mitigation, contract negotiation (FIDIC), and dispute resolution for major infrastructure, real estate, and energy projects.
- **Intellectual Property & Technology:** Guidance on trademark protection, data privacy, cross-border licensing, media law, and emerging technologies (including AI and Fintech regulations).

Our Leadership:

Led by its founder, Prof. Dr. George Hazboun, alongside a team of highly qualified senior legal consultants, litigators, and arbitration experts, ICLC combines academic rigor with practical litigation strength. Our

team operates fluently in both Arabic and English, bridging jurisdictional and cultural gaps for our international clientele.

Diplomatic & Foreign Investor Liaison

ICLC dedicatedly assists foreign diplomatic missions, commercial attachés, and international entities seeking legal clarity or investment opportunities within the Hashemite Kingdom of Jordan.

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