

# Arbitration Procedures and Practice in the United Arab Emirates: Overview

by Chatura Randeniya and Mevan Bandara, *Afridi & Angell*

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A Q&A guide to arbitration law and practice in the United Arab Emirates.

The country-specific Q&A guide provides a structured overview of the key practical issues concerning arbitration in this jurisdiction, including any mandatory provisions and default rules applicable under local law, confidentiality, local courts' willingness to assist arbitration, enforcement of awards and the available remedies, both final and interim.

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## Use of Arbitration and Recent Trends

1. How is commercial arbitration used and what are the recent trends?

### Use of Commercial Arbitration and Recent Trends

Arbitration is a popular method of dispute resolution in the UAE and in the surrounding regions. The growth of arbitration in the UAE is reflected to some extent by the fact that there are now several institutions in the UAE which administer commercial arbitrations.

The UAE also introduced Federal Law No. 6/2018 on Arbitration (Arbitration Law), the UAE's first stand-alone law on arbitration, which introduced, among other things, a more streamlined process to enforce domestic arbitration awards, as well as amendments to the UAE Civil Procedure Code to facilitate the recognition and enforcement of foreign arbitral awards.

In 2021, Dubai Decree No. 34 of 2021 (Decree 34) abolished the Emirates Maritime Arbitration Centre and the Dubai International Financial Centre (DIFC) Arbitration Institute (which administered DIFC-London Court of International Arbitration (LCIA) arbitrations), and all assets and liabilities of these centres were transferred to the Dubai International Arbitration Centre (DIAC).

The more prominent arbitral institutions in the UAE are the:

- *DIAC*, which administers arbitrations under the DIAC Arbitration Rules 2007 (DIAC Rules) and the DIAC Arbitration Rules 2022. The DIAC has also recently begun to accept the filing of new arbitration cases subject to a DIFC-LCIA arbitration agreement. These cases will be administered by DIAC under the DIAC Rules 2022.

- *Abu Dhabi Conciliation and Arbitration Centre* (ADCCAC), which administers arbitrations under the Procedural Regulations of the ADCCAC.
- Sharjah International Commercial Arbitration Centre (Tahkeem).
- Ras Al-Khaimah Centre for Reconciliation and Commercial Arbitration.

Since 2008, many of the arbitrations in the region have related to construction disputes and the real estate sector. However, recent trends have demonstrated a willingness of parties to arbitration to submit to a broader range of general commercial matters, rather than just specialist disputes.

Dubai and the two financial free zones, the DIFC and the Abu Dhabi Global Market (ADGM), are a popular seat of arbitration in the region. In fact, where the parties have not specified a seat, and until a tribunal makes a determination of the seat, the initial seat of arbitration for arbitrations conducted under the new DIAC Rules is the DIFC. There are signs of an increased use of arbitration in the UAE, demonstrated by the:

- Local courts' welcoming approach to the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention).
- Enactment of the UAE's first stand-alone Arbitration Law.
- Recent developments in the DIFC Court.

## Advantages/Disadvantages

Some advantages of arbitration over litigation include:

- The proceedings are confidential (unless the parties agree otherwise).
- Arbitrators with the requisite expertise can be appointed to deal with disputes involving technical subject matters.
- Arbitrations can be conducted in English, or in any other language agreed to by the parties, whereas local court litigation is always in Arabic.
- Oral evidence is permitted in arbitration, whereas only written submissions are generally permitted in the courts.
- There are limited avenues for appealing arbitral awards and the merits of a decision cannot be challenged.

Some disadvantages of arbitration when compared to litigation include:

- Arbitral proceedings are generally more costly, considering the tribunal and administrative fees.
- Arbitration awards must be ratified by the courts to be enforceable. This can cause delays and extra costs in the enforcement of an award, although the position has improved with the introduction of the Arbitration Law.

## Legislative Framework

## Applicable Legislation

2. What legislation applies to arbitration? To what extent has your jurisdiction adopted the UNCITRAL Model Law on International Commercial Arbitration 1985 (UNCITRAL Model Law)?

If the arbitration is seated in any emirate in the UAE (other than in a financial free zone), the Arbitration Law applies. The Arbitration Law is largely based on the UNCITRAL Model Arbitration Law.

However, there are some differences between the Arbitration Law and the UNCITRAL Model Arbitration Law, including:

- The Arbitration Law provides that the signatory of the agreement must be authorised to enter into the arbitration agreement.
- The date of the commencement of arbitration in the Arbitration Law differs from the UNCITRAL Model Law.
- The Arbitration Law contains provisions regarding the use of technology in arbitration.
- The Arbitration Law expressly protects the confidentiality of arbitration hearing and awards.

There are currently two financial free zones established in the UAE that have separate arbitration legislation. The financial free zone in Dubai is the Dubai International Financial Centre (DIFC) and the financial free zone in Abu Dhabi is the Abu Dhabi Global Market (ADGM).

Arbitration rules are usually determined by the choice of arbitral institution.

Similarly, the local UAE courts exercise a supervisory function over disputes submitted to arbitration institutions outside the DIFC, such as the Dubai International Arbitration Centre where a large number of arbitrations in the UAE are conducted.

## Mandatory Legislative Provisions

3. Are there any mandatory legislative provisions? What is their effect?

There are no mandatory provisions on procedure. The Arbitration Law gives parties the freedom to agree on the applicable procedural steps, subject to any procedural requirements that may exist in the agreed rules.

The provisions of the Arbitration Law on the formation of a valid arbitration agreement and the grounds on which a party can apply to invalidate an award may be considered mandatory.

4. Does the law prohibit any types of dispute from being resolved through arbitration?

Certain types of disputes are not arbitrable, including:

- Labour disputes.
- Disputes relating to registered commercial agencies.
- Matters relating to public policy.

## Limitation

5. Does the law of limitation apply to arbitration proceedings?

The legal provisions relating to limitation periods also apply to arbitrations. The general limitation period is 15 years for civil claims (Article 473, Federal Law No. 5 of 1985 (Civil Code)) and ten years for commercial claims (Article 95, Federal Law No. 18/4993 (Commercial Code)). However, the limitation periods depend on the subject matter.

The final award must be issued within the period agreed by the parties. If there is no such agreement, the final award must be issued within six months from the date of the first hearing of the arbitration (which is generally the preliminary hearing). The tribunal can extend this period by up to six additional months unless the parties agree to a longer extension.

## Arbitration Institutions

6. Which arbitration institutions are commonly used to resolve large commercial disputes?

The most commonly used organisations to resolve commercial disputes in the UAE are the:

- *DIAC.*
- *Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCCAC).*
- *International Chamber of Commerce (ICC) International Court of Arbitration.*

## Jurisdictional Issues

7. What remedies are available where one party denies that the tribunal has jurisdiction to determine the dispute(s)? Does your jurisdiction recognise the concept of kompetenz-kompetenz? Does the tribunal or the local court determine issues of jurisdiction?

The concept of kompetenz-kompetenz is recognised in the UAE, both in the Arbitration Law and in various institutional rules. For example, Article 6.2 of the 2022 DIAC Rules states that in proceedings before the DIAC, if a party raises a plea relating to the existence, validity, scope or applicability of the arbitration agreement, the Arbitration Court of the DIAC can decide, without prejudice to the admissibility or merits of the plea, that the arbitration must continue if the Arbitration Court is *prima facie* satisfied that an arbitration agreement exists. In these circumstances, the parties can raise any such jurisdictional objection before the tribunal as a preliminary issue, and any decision as to the jurisdiction of the tribunal is taken by the tribunal itself (Article 6.3, 2022 DIAC Rules). If the Arbitration Court is not satisfied, the parties are notified that the arbitration cannot proceed. Any party then retains the right to ask any competent court to determine whether or not there is a binding arbitration agreement.

The Arbitration Law provides that a plea to the jurisdiction of the arbitral tribunal must be raised no later than the submission of the respondent's statement of defence and that a tribunal's decision on its own jurisdiction and competence can be appealed to the Court of Appeal within 15 days from the date of being notified of the decision.

## Arbitration Agreements

### Validity Requirements

8. What are the requirements for an arbitration agreement to be enforceable?

### Substantive/Formal Requirements

The following requirements apply to arbitration agreements:

- The arbitration agreement must be in writing, which includes written or electronic correspondence.
- An arbitration agreement can be incorporated by reference to another document containing an arbitration clause, provided that the reference is clear that the arbitration clause is being incorporated.
- The person agreeing to arbitration on behalf of a body corporate must have specific authority to agree to arbitration. Ordinarily, this authority must be evidenced by a shareholders' resolution or by the articles of association of a company.
- If the agreement is entered into by a natural person, that person must have the legal capacity to dispose of their rights.

Additionally, the wording of the arbitration agreement must be clear and unequivocal. Agreements to arbitrate are construed narrowly.

If an arbitration clause has been incorporated by reference, the courts ordinarily require that the document containing the arbitration clause must also be signed by the parties, although the requirement for signature is not provided for in the Arbitration Law. The court will also require that the reference to arbitration is clear. It is therefore not unusual to see standard terms annexed to the main contract also being initialled by the parties.

### **Separate Arbitration Agreement**

An arbitration agreement can be concluded before a dispute arises either in the form of a separate agreement or as a clause within a contract. An arbitration agreement can be incorporated by reference to another document containing an arbitration clause, provided that the reference is clear that the arbitration clause is being incorporated. An arbitration agreement can also be concluded after a dispute has arisen, even if an action has already been brought before a court.

### **Unilateral or Optional Clauses**

9. Are unilateral or optional clauses, where one party has the right to choose arbitration, enforceable?

Theoretically, unilateral or optional clauses are enforceable. However, there has not been a judicial determination on this point by the onshore courts. The ADGM court, however, recently confirmed the validity of unilateral option clauses and found that a party can exercise the option not only to choose between arbitration and litigation, but also to vary the rules and seat of an arbitration after a dispute has arisen.

### **Third Parties**

10. In what circumstances can a party that is not a party to an arbitration agreement be joined to the arbitration proceedings?

Arbitration is considered to be an exceptional form of dispute resolution. The law requires that an agreement to arbitrate must be in writing and signed by the parties who have the legal capacity to dispose of the disputed right. In the absence of such an agreement in writing, a party cannot be compelled to arbitrate. The arbitral tribunal has the power, on the application of any party or a third party, to allow a third party to intervene or be joined in the arbitration, provided it is a party to the arbitration agreement (Arbitration Law). However, in either case the power can only be exercised after giving all parties, including the third party, the opportunity to be heard.

11. In what circumstances can a party that is not a party to an arbitration agreement compel a party to the arbitration agreement to arbitrate disputes under the arbitration agreement?

See [Question 10](#).

## Separability

12. Does the applicable law recognise the separability of arbitration agreements?

The Arbitration Law provides that:

- An arbitration clause must be treated as an agreement independent from the other terms of a contract.
- The termination or nullification of a contract in which an arbitration clause is incorporated does not affect the validity of the arbitration clause.

In a recent judgment of the Sharjah Court of Appeal, it was held that a party relying on a contract containing an arbitration clause to assert its claims cannot assert that the arbitration clause is invalid.

## Breach of an Arbitration Agreement

13. What remedies are available where a party starts court proceedings in breach of an arbitration agreement or initiates arbitration in breach of a valid jurisdiction clause?

## **Court Proceedings in Breach of an Arbitration Agreement**

If a dispute in respect of an arbitration agreement is initiated before the courts, the court will decline jurisdiction if the defendant asserts a jurisdictional objection before submitting its plea on the merits of the dispute.

In practice, the jurisdictional objection is asserted at the first hearing in which the defendant appears. However, courts do not always determine jurisdictional objections as a preliminary issue and on occasion proceed to determine the substantive issue.

In a judgment rendered to the Abu Dhabi Court of Cassation, the court held that where the parties engage in the merits of the dispute before the court, even while asserting a jurisdictional objection, the parties are deemed to have waived their right to resort to arbitration.

However, in October 2021, the Dubai Court of Cassation found that the court can of its own accord reject jurisdiction where an arbitration agreement exists, and that a party can file its jurisdictional challenge for the first time at the appellate or cassation courts (even if not presented at the primary or the appeals courts).

## **Arbitration in Breach of a Valid Jurisdiction Clause**

If the underlying contract does not contain an arbitration clause or provides for dispute resolution in a forum other than arbitration, the arbitral tribunal will not have jurisdiction over the dispute and will refuse to arbitrate the matter. A jurisdictional objection should be raised no later than with the submission of the respondent's statement of defence. The fact that the party seeking to assert a jurisdictional objection appointed or was involved in the appointment of an arbitrator, does not preclude it from asserting a jurisdictional objection.

14. Will the local courts grant an injunction to restrain proceedings started overseas in breach of an arbitration agreement?

The DIFC courts have issued such orders, but the onshore courts do not grant interim relief in the way of restraining orders.

## **Arbitrators**

### **Number and Qualifications/Characteristics**



15. Are there any legal requirements relating to the number, qualifications and characteristics of arbitrators? Must an arbitrator be a national of, or licensed to practice in your jurisdiction to serve as an arbitrator there?

There is no legal limit on the number of arbitrators required. However, the number of arbitrators must be an odd number (if there is more than one arbitrator).

The following arbitrator restrictions apply:

- An arbitrator must be a natural person who is not:
  - a minor;
  - under a court interdiction order; or
  - deprived of civil rights due to bankruptcy, committing a felony, misdemeanour, or conviction for a crime involving moral turpitude or breach of trust.
- An arbitrator cannot be a member of the trustees or the administrative body of the institution administering the arbitration (the arbitral institution).

In addition, the Arbitration Law allows for the parties to agree on the gender and nationality of an arbitrator.

## **Independence/Impartiality**

16. Are there any requirements relating to arbitrators' independence and/or impartiality?

Once notified of their nomination, an arbitrator must disclose in writing anything that may raise doubts about their impartiality or independence. This obligation continues throughout the proceedings and therefore an arbitrator is obliged to notify the parties of any condition that arises during the arbitration that may impact their impartiality and independence.

Most of the institutional arbitration rules have express provisions requiring arbitrators' independence or impartiality (for example, Article 14, 2022 DIAC Rules).

## **Appointment/Removal**

17. Does the law contain default provisions relating to the appointment and/or removal of arbitrators?

## Appointment of Arbitrators

In the absence of an agreement between the parties, an arbitration should be heard by three arbitrators, unless otherwise determined by the institution administering the arbitration (Arbitration Law). Each party is required to nominate an arbitrator and the chairperson of the tribunal is nominated by the parties' nominated arbitrators. If the party-nominated arbitrators are unable to agree on the chairperson, the appointment will be made by the arbitral institution.

In certain institutional rules, the institution is permitted to appoint arbitrators.

## Removal of Arbitrators

An arbitrator can be removed and replaced:

- Following the death or incapacity of an arbitrator.
- Following a challenge of appointment.
- If the arbitral institution finds that the arbitrator:
  - is unable to perform their functions or ceases to perform their functions;
  - acts in a manner that leads to unjustifiable delays in the arbitral proceedings; or
  - deliberately fails to act in accordance with the arbitration agreement.

(Arbitration Law.)

## Procedure

### Commencement of Arbitral Proceedings

18. Does the law provide default rules governing the commencement of arbitral proceedings?

Proceedings are commenced on the day following the day the tribunal is constituted, unless otherwise agreed between the parties (Arbitration Law). Arbitration is commenced by filing a request for arbitration. The requirements for the request for arbitration are generally listed in the applicable institutional rules. If arbitration is to be commenced by lawyers, evidence of authority by way of a power of attorney is usually required.

Other procedures apply in initiating proceedings depending on the arbitration rules being used.

## Applicable Rules and Powers

19. What procedural rules are arbitrators bound by? Can the parties determine the procedural rules that apply? Does the law provide any default rules governing procedure?

## Applicable Procedural Rules

The Arbitration Law gives parties the freedom to agree on the applicable procedural steps, subject to any procedural requirements that may exist in the agreed rules. Where there is no agreement, the tribunal can adopt such procedures as it sees appropriate, subject to the provisions of the Arbitration Law and any relevant international treaties.

With institutional arbitration proceedings, the procedural rules of the institution apply.

## Default Rules

If the parties cannot agree on the procedural rules, the arbitrator(s) must decide on the applicable rules.

## Evidence and Disclosure

20. If there is no express agreement, can the arbitrator order disclosure of documents and attendance of witnesses (factual or expert)?

With the exception of the laws and regulation that govern the DIFC and ADGM Free Zones, there is no process of discovery and inspection of documents in the UAE judicial system. Despite this, the Arbitration Law permits an arbitration tribunal to request a court to order a party or a third party to give oral testimony or produce any document that is in its possession, provided the document is "essential for deciding the dispute."

As a general rule, each party is expected to produce the documents that it wishes to rely on for its case. There is no obligation on a party to file a document that is damaging to its case, so discovery is limited. The Arbitration Law provides that:

- An arbitrator can order the production of original documents, copies of which have already been produced by a party.
- A tribunal, at its own initiative or at the request of a party, can seek an order from the Court of Appeal to order sanctions against a witness who fails to appear or answer questions, or to direct a third party to produce documents in its possession that are essential to determine the dispute in arbitration.

In practice, parties commonly agree to the IBA Rules on the Taking of Evidence in International Arbitration being used in arbitration. Arbitrators can also draw on the applicable institutional rules to make such orders.

For example, under the DIAC Rules, the arbitrator(s) can order, at any time during an arbitration:

- Disclosure of documents and taking of evidence.
- Attendance of experts.
- Witness testimony and hearings.

## Evidence

21. What documents must the parties disclose to the other parties and/or the arbitrator? How, in practice, does the scope of disclosure in arbitrations compare with disclosure in domestic court litigation? Can the parties set the rules on disclosure by agreement?

## Scope of Disclosure

The scope of disclosure is often very limited in the UAE, both in litigation and arbitration. A party is generally not obliged to disclose any document that is detrimental to its case, unless ordered by the court to do so.

## Validity of Parties' Agreement as to Rule of Disclosure

The parties can determine the rules on disclosure. Increasingly, the IBA Rules on the Taking of Evidence in International Arbitration are being adopted within arbitration proceedings. Under the 2022 DIAC Rules, the tribunal can decide on the rules of evidence to be applied during the proceedings (Article 25.2, 2022 DIAC Rules). Additionally, the parties are not required to disclose any document they are not intending to rely on, unless ordered by the arbitrator to do so.

## Confidentiality

22. Is arbitration confidential? If so, what is the scope of that confidentiality and who is subject to the obligation (parties, arbitrators, institutions and so on)?

The Arbitration Law expressly protects the confidentiality of arbitration hearing and awards.

## Courts and Arbitration

23. Will the local courts intervene to assist arbitration proceedings seated in their jurisdiction?

Local courts can issue interim measures (such as attachment orders) before or after arbitration proceedings have been initiated. Interim measures are granted at the discretion of the court.

The below measures can also be granted by a local court through an application to the chief judge of the Court of Appeal:

- Preservation of evidence.
- Preservation of goods that constitute part of the subject matter of the dispute.
- Preservation of assets and funds.
- Maintenance or restoration of the status quo.
- Prevention or restraint of an action that is likely to cause imminent harm or prejudice to the arbitration process.
- Direction of a third party to give oral testimony and/or to produce a document in its possession.

24. What is the risk of a local court intervening to frustrate an arbitration seated in its jurisdiction? Can a party delay proceedings by frequent court applications?

Following the enactment of the Arbitration Law, the risk of court intervention has been minimised. However, a party can still approach court in certain circumstances. For example, a party can appeal a decision of the tribunal regarding its own jurisdiction

within 15 days of the decision being issued. The arbitration is stayed during the appeal, but a party that wishes for the arbitration to continue while the appeal is pending can request the tribunal to continue (Arbitration Law). A party can also approach the court for interim or conservatory orders, but this must not result in the stay of ongoing arbitration proceedings (Arbitration Law).

## Insolvency

25. What is the effect on the arbitration of pending insolvency of one or more of the parties to the arbitration?

The Arbitration Law makes no provision with respect to the effect of pending insolvency of any of the parties. The Federal Bankruptcy Law, however, provides that "judicial proceedings" (which are likely to include arbitral proceedings) will be suspended in the event a company enters into a preventive composition or restructuring.

## Remedies

26. What interim remedies are available from the tribunal?

### Interim Remedies

The Arbitration Law empowers tribunals to grant interim or conservatory measures that it considers necessary given the subject matter of the dispute, including orders to:

- Preserve evidence.
- Preserve goods that constitute part of the subject matter of the dispute.
- Preserve assets and funds.
- Maintain or restore the status quo.
- Prevent or restrain action that is likely to cause imminent harm or prejudice to the arbitration process.

This is also the subject of institutional rules. For example, Article 1 of Appendix II of the 2022 DIAC Rules provides that a tribunal can grant interim measure on terms that it considers appropriate in the circumstances.

### Ex Parte/Without Notice Applications

The Arbitration Law does not make any provision with respect to the tribunal's powers to give ex-parte relief. However, where a party approaches the Court of Appeal (being the competent court under the Arbitration Law), interim relief is usually granted ex parte.

## Security

Article 21(2) of the Arbitration Law provides that a tribunal can require security from a party seeking interim or conservatory measures.

Under Article 1.2 (e), Appendix II of the 2022 DIAC Rules, the tribunal can order a party to provide or procure security for the costs of the arbitration (including the fees of the legal representatives and any expenses incurred by those representatives), together with any other party's costs, in an amount and in a manner determined by the tribunal having regard to the relevant circumstances.

27. What final remedies are available from the tribunal?

The tribunal can award:

- Damages.
- Injunctions (see [Question 27](#)).
- Costs (see [Question 32](#)).
- Interest.

## Appeals

28. Can arbitration proceedings and awards be appealed or challenged in the local courts? What are the grounds and procedure? Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitral clause itself)?

## Rights of Appeal/Challenge

The merits of an award are not subject to challenge or appeal and constitutes *res judicata*. Awards can be set aside on the following grounds:

- There is no arbitration agreement or the agreement is void or has lapsed.
- A party agreeing to arbitration does not have the capacity to agree to arbitration.
- A party fails to present its case in the arbitration because it was not given proper notice of the appointment of an arbitrator, of the arbitral proceedings or for any other reason beyond its control.
- The award excludes the application of the parties' choice of law for the dispute.
- The composition of the tribunal or the appointment of the arbitrator was not in accordance with the law or the agreement between the parties.
- The arbitral proceedings were marred with procedural irregularity or the arbitral award was not issued within the specified timeframe.
- The award goes beyond the arbitrator's scope.
- The subject matter of the dispute cannot be settled by arbitration.
- The arbitral award conflicts with the public order and morality of the state.

An action to set aside an award must be filed before Court of Appeal within 30 days from notification of the award. An appeal lies to the Court of Cassation. A party can also seek to contest an award during ratification and enforcement proceedings. Ratification proceedings are before the Court of Appeal and must be determined within 60 days. An appeal is available by way of a petition to Court of Appeal to be filed within 30 days.

## Grounds and Procedure

See above, *Rights of Appeal/Challenge*.

## Waiving Rights of Appeal

The Arbitration Law provides that a party can seek to set aside an award even where it has waived the right to challenge the award before the award being issued.

29. What is the limitation period applicable to actions to vacate or challenge an international arbitration award rendered inside your jurisdiction?

See *Question 28, Rights of Appeal/Challenge*. The applicable legislation does not provide for a time limit for challenging foreign awards in the UAE.

## Costs



30. What legal fee structures can be used? Are fees fixed by law?

Legal fees are not fixed by law. Hourly rates and fixed fee arrangements are commonly used. Contingency fees are not permitted in the UAE. There is no legislation or rules prohibiting or regulating third party funding in arbitrations in the UAE.

The 2022 DIAC Rules, however, make provision for third party funding (Article 22) and a number of third party funders, such as Omnibridgeway, Burford and LCM, are active in the UAE market. A party who has entered into a third-party funding arrangement must disclose that arrangement to the parties and the DIAC (2022 DIAC Rules).

31. Does the unsuccessful party have to pay the successful party's costs? How does the tribunal usually calculate any costs award and what factors does it consider?

## Cost Allocation

The Arbitration Law provides that a tribunal can assess costs, unless otherwise agreed by the parties, and that such costs include arbitrators' fees and expenses. In addition to arbitrators' fees, institutional fees and expert's fees are also included in assessments. Recent decisions of the UAE courts require express agreement between the parties empowering the tribunal to award legal costs and as a matter of practice this agreement is usually specified at the time the terms of reference are formulated. The 2022 DIAC Rules authorise the tribunal to award legal fees (Article 36).

## Cost Calculation

Arbitral tribunals can award costs at their discretion. A party can apply to the court for a variation of the tribunal's assessment of costs.

## Factors Considered

Costs are generally awarded on the basis of the:

- Parties' submissions.
- Complexity and nature of the dispute.
- Time spent.
- Discretion of the arbitral tribunal.

It is advisable to have an express provision for the allocation of costs from the outset within the arbitration agreement.

## Enforcement of an Award

### Domestic Awards

32. To what extent is an arbitration award made in your jurisdiction enforceable in the local courts?

Arbitral awards must be ratified through the local courts. Therefore, the party seeking to enforce an award must apply to the court to have the award ratified. This involves filing a civil suit in the form of a claimant seeking ratification of the award in the Court of Appeal. The original award and any annexes must be filed with the application.

The application is considered ex parte and, if ratified, the ratification is served on the defendant. The defendant has an opportunity to set aside the award.

### Foreign Awards

33. Is your jurisdiction party to international treaties relating to recognition and enforcement of foreign arbitration awards, such as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention)?

The UAE is party to the following relevant international treaties:

- The New York Convention.
- Arab Convention on Judicial Co-operation (Riyadh Convention).
- Agreement of Execution of Judgments, Delegations and Judicial Notifications in the Arab Gulf Cooperation Council Countries (GCC Treaty).

Arbitral awards rendered by an arbitral tribunal in the UAE are enforceable (subject to the local laws) in jurisdictions that are parties to these treaties.

In addition, the UAE has entered into certain bilateral treaties for judicial co-operation and enforcement of judgments with a number of countries (for example, France and India).

34. To what extent is a foreign arbitration award enforceable?

The UAE is party to several international and bilateral treaties relating to, among other things, the enforcement of arbitral awards (see [Question 29](#)). Therefore, the enforcement of foreign arbitral awards in the UAE is subject to the applicable treaties.

An application to enforce a foreign award must be made to an enforcement judge and the judge must make a decision within three days (2019 Regulations issued under the Federal Civil Procedure Code). The requirements for enforcing a foreign judgment, which the enforcement judge is required to verify before issuing a decision, also apply with respect to enforcement of foreign awards:

- The UAE courts must not have exclusive jurisdiction over the matter.
- The judgment or order must have been issued by an authorised court under the law of the relevant foreign jurisdiction.
- The parties to the foreign proceedings must have been summoned and represented.
- The foreign judgment/order sought to be enforced must be *res judicata* under the laws of the relevant foreign jurisdiction.
- The foreign judgment/order sought to be enforced must not be contrary to a judgment or order of a UAE court, or to the morals and public order of the UAE.

(2019 Regulations.)

Additionally, where the enforcement of a foreign award is sought in the UAE, the subject matter of the foreign arbitral award must be arbitrable according to the laws of the UAE, and the award must be enforceable in the jurisdiction in which it was issued. This is without prejudice to the provisions of any applicable treaty provisions (Arbitration Law).

In addition, if the award has been rendered outside the UAE, it must:

- Undergo the process of legalisation, which involves:
  - the notarisation and consularisation of the award at the level of the UAE Embassy in the country in which it is issued; and
  - further authentication of the award by the Ministries of Foreign Affairs and Justice in the UAE.
- Be translated (where required).

35. What is the limitation period applicable to actions to enforce international arbitration awards rendered outside your jurisdiction?

The applicable legislation does not provide for a time limit to enforce foreign awards in the UAE. See [Question 28](#) with respect to awards issued in the UAE.

### Length of Enforcement Proceedings

36. How long do enforcement proceedings in the local court take, from the date of filing the application to the date when the first instance court makes its final order? Is there an expedited procedure?

An order for the ratification and enforcement of an award must be made within 60 days of the application being made by the party, unless the court finds that the award should be set aside (Arbitration Law).

In theory, enforcement of foreign awards takes less time as the application is made directly to the enforcement judge without the requirement for ratification proceedings. However, the process of attestation of a foreign award may take some time, depending on the foreign country involved.

### Reform

37. Are any changes to the law currently under consideration or being proposed?

The Arbitration Law is very recent, and it is unlikely than any major changes will be made in the near future.

**Contributor Profiles**

**Chatura Randeniya, Partner**

**Afridi & Angell**

T +971 4 330 3900  
F +971 4 330 3800  
E [crandeniya@afриди-angell.com](mailto:crandeniya@afриди-angell.com)  
W [www.afриди-angell.com](http://www.afриди-angell.com)

**Professional and academic qualifications.** Attorney-at-Law of the Supreme Court of Sri Lanka, called to the Bar in 2006; LLM Harvard Law School; LLB (Honours) University of Colombo, Sri Lanka. Ranked as a dispute resolution practitioner: Legal 500 EMEA and Chambers Global

**Areas of practice.** Dispute resolution; litigation and arbitration; construction; and shipping maritime and transport.

**Languages.** English

#### **Publications**

- *Arbitration (UAE chapter), Lexology Getting The Deal Through, 2022.*
- *Litigation and Enforcement in the UAE, 2021, Practical Law Global Guide (co-author of UAE chapter).*
- *Arrest of Vessels, Maritime Law Handbook, 2021, Kluwer Law International.*

### **Mevan Bandara, Senior Associate**

**Afridi & Angell**  
T +971 4 330 3900  
F +971 4 330 3800  
E [mbandara@afриди-angell.com](mailto:mbandara@afриди-angell.com)  
W [www.afриди-angell.com](http://www.afриди-angell.com)

**Professional and academic qualifications.** Attorney-at-Law of the Supreme Court of Sri Lanka, called to the Bar in 2011; LLB (Honours) University of Colombo, Sri Lanka

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- *Litigation and Enforcement in the UAE, 2021, Practical Law Global Guide (co-author of UAE chapter).*

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