

ARBITRATION

United Arab Emirates



Arbitration

Consulting editors

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Macfarlanes LLP

Quick reference guide enabling side-by-side comparison of local insights, including into applicable laws, conventions and treaties, and prominent local arbitral institutions; arbitration agreements; constitution, jurisdiction and competence of arbitral tribunals; arbitral proceedings; interim measures and sanctioning powers; awards; proceedings subsequent to issuance of award; influence of local legal traditions on arbitrators; professional or ethical rules; third-party funding; regulation of activities.

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Table of contents

LAWS AND INSTITUTIONS

Multilateral conventions relating to arbitration
Bilateral investment treaties
Domestic arbitration law
Domestic arbitration and UNCITRAL
Mandatory provisions
Substantive law
Arbitral institutions

ARBITRATION AGREEMENT

Arbitrability
Requirements
Enforceability
Separability
Third parties – bound by arbitration agreement
Third parties – participation
Groups of companies
Multiparty arbitration agreements
Consolidation

CONSTITUTION OF ARBITRAL TRIBUNAL

Eligibility of arbitrators
Background of arbitrators
Default appointment of arbitrators
Challenge and replacement of arbitrators
Relationship between parties and arbitrators
Duties of arbitrators
Immunity of arbitrators from liability

JURISDICTION AND COMPETENCE OF ARBITRAL TRIBUNAL

Court proceedings contrary to arbitration agreements
Jurisdiction of arbitral tribunal
Distinction between admissibility and jurisdiction of tribunal

ARBITRAL PROCEEDINGS

Place and language of arbitration, and choice of law

Commencement of arbitration

Hearing

Evidence

Court involvement

Confidentiality

INTERIM MEASURES AND SANCTIONING POWERS

Interim measures by the courts

Interim measures by an emergency arbitrator

Interim measures by the arbitral tribunal

Sanctioning powers of the arbitral tribunal

AWARDS

Decisions by the arbitral tribunal

Dissenting opinions

Form and content requirements

Time limit for award

Date of award

Types of awards

Termination of proceedings

Cost allocation and recovery

Interest

PROCEEDINGS SUBSEQUENT TO ISSUANCE OF AWARD

Interpretation and correction of awards

Challenge of awards

Levels of appeal

Recognition and enforcement

Time limits for enforcement of arbitral awards

Enforcement of foreign awards

Enforcement of orders by emergency arbitrators

Cost of enforcement

OTHER

Influence of legal traditions on arbitrators

Professional or ethical rules

Third-party funding

Regulation of activities

UPDATE AND TRENDS

Legislative reform and investment treaty arbitration

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LAWS AND INSTITUTIONS

Multilateral conventions relating to arbitration

Is your jurisdiction a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to international commercial and investment arbitration is your country a party to?

The UAE is a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The convention was ratified without any amendments in 2006 by Federal Decree No. 43 of 2006.

The UAE is also a signatory to the ICSID Convention, which was ratified in December 1981 and came into force on 22 January 1982.

Other multilateral treaties to which the UAE is a signatory are:

- the Convention on the Settlement of Investment Disputes between States Hosting Arab Investments and Citizens of Other States, 1974 was ratified by way of Federal Decree No. 36 of 1977;
- the GCC Convention for the Execution of Judgments, Delegations and Judicial Notifications, 1996; and
- the Riyadh Convention on Judicial Cooperation between States of the Arab League, 1983 was incorporated into UAE's domestic legislation by way of Federal Decree No. 53 of 1999.

Law stated - 09 March 2023

Bilateral investment treaties

Do bilateral investment treaties exist with other countries?

The UAE is a signatory to 108 bilateral investment treaties, out of which 62 have been ratified and are in force .

Law stated - 09 March 2023

Domestic arbitration law

What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

If the arbitration is seated in any emirate in the United Arab Emirates (other than in a financial free zone), Federal Law No. 6 of 2018 on Arbitration (the Arbitration Law) will apply. The Arbitration Law is largely based on the UNCITRAL Model Arbitration Law.

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

The Arbitration Law considers arbitration to be international, even if conducted in the UAE, in the following circumstances:

- the places of business of the parties are located in two different countries at the same time the arbitration

agreement is signed;

- the subject of the dispute is related to more than one country;
- if the parties expressly agree that subject of arbitration is related to more than one country; or
- if either of the following places is located outside the country where the place of business of a party is located:
 - the seat of arbitration indicated in the arbitration agreement;
 - the place of performance of a substantial portion of the obligation under the contract; or
 - the place to which the subject matter of the dispute is closely connected to.

This guide covers arbitrations seated in the United Arab Emirates (onshore) where the Arbitration Law is applicable.

Law stated - 09 March 2023

Domestic arbitration and UNCITRAL

Is your domestic arbitration law based on the UNCITRAL Model Law? What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?

The Arbitration Law is largely based on the UNCITRAL Model Law. However, there are some differences between the Arbitration Law and the UNCITRAL Model Law, including, but not limited to:

- 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 differs between the Arbitration Law and 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 hearings and awards; and
- if a party wishes to file an application to set aside an award, the Arbitration Law requires the party to submit the application to the court within 30 days of the notification of the award.

Law stated - 09 March 2023

Mandatory provisions

What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

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.

However, there are certain mandatory provisions in relation to evidence given by witnesses in arbitration proceedings. Article 76(1) of Federal Decree-Law 35 of 2022 (the UAE Evidence Law) requires witness evidence to be given under oath. Therefore, if the arbitration is seated in onshore UAE, a witness must give an oath prior to giving their testimony. This requirement was upheld in the Dubai Court of Cassation Case Nos. 78/2022 and 96/2022, where the Dubai Court of Cassation held that those procedures of the arbitration that relied on the testimony of witnesses who were not sworn in shall be null and void.

Law stated - 09 March 2023

Substantive law

Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Parties are free to agree the law applicable to the merits. If the parties have not agreed on the substantive law governing the dispute, the tribunal is required to apply the law that it deems to be most closely connected to the dispute. In determining this issue, the tribunal should take into consideration the following:

- the terms of the contract;
- the subject matter of the dispute;
- the usages of the trade applicable to the transaction; and
- past practices between the parties.

Law stated - 09 March 2023

Arbitral institutions

What are the most prominent arbitral institutions situated in your jurisdiction?

The UAE hosts a number of arbitral institutions, including:

The Dubai International Arbitration Centre (DIAC)

Dubai Chamber of Commerce & Industry

Baniyas Road, Deira

PO Box 1457

Dubai

United Arab Emirates

www.diac.com/en/home/

Email: diac.cases@diac.ae

Sharjah International Commercial Arbitration Centre (Tahkeem)

PO Box 1174

Sharjah

www.tahkeem.ae/en

Email: info@tahkeem.ae

Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCCAC)

PO Box 6620

Abu Dhabi

www.adccac.ae

Email: adccac@adcci.gov.ae

In addition, the International Chamber of Commerce (ICC) has a case management office located at the Abu Dhabi Global Market (ADGM). The on-site staff at the ADGM representative office are empowered to accept the registration of arbitration cases under the ICC Rules, which is subsequently administered by one of the ICC Court Secretariat's existing case management teams.

Dubai Decree No. 34 of 2021, concerning the DIAC, abolished the Emirates Maritime Arbitration Centre (EMAC) and the Dubai International Financial Centre Arbitration Institute (DIA), and all assets, rights, liabilities and obligations of the EMAC and the DIA were transferred to the DIAC.

Dubai Decree No. 34/2021 also led to the DIFC-LCIA being abolished. However, ongoing DIFC-LCIA arbitration proceedings (cases registered that commenced on or before 20 March 2022) will continue to be administered in accordance with the DIFC-LCIA Rules, and procedural adjustments are available to allow an award to be issued as an LCIA award. For such proceedings, the DIAC will be responsible for the payments and financial aspects of case-related administration.

The DIAC, ADCCAC and Tahkeem charge their fees and the fees of arbitrators based on the value of the dispute.

Law stated - 09 March 2023

ARBITRATION AGREEMENT

Arbitrability

Are there any types of disputes that are not arbitrable?

Certain types of disputes are not arbitrable, including:

- labour disputes;
- disputes between a tenant and the landlord arising from a lease agreement; and
- matters relating to public policy.

Law stated - 09 March 2023

Requirements

What formal and other requirements exist for an arbitration agreement?

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 in 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. That said, although there is no express statutory provision in the UAE Arbitration Law recognising the principle of apparent authority, certain judgments of the UAE courts have recognised the validity of an arbitration agreement signed by a signatory with apparent authority (albeit, the concept of binding precedence is not recognised in the UAE); and



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9/26

- if the agreement is entered into by a natural person, such person must have the legal capacity to dispose of his or her rights.

Law stated - 09 March 2023

Enforceability

In what circumstances is an arbitration agreement no longer enforceable?

An arbitration agreement will not be enforceable in the following circumstances:

- if the arbitration agreement does not fulfil the requirements for an arbitration agreement; and
- if it relates to a type of dispute that is not arbitrable.

An arbitration agreement does not expire or terminate upon the death of either party unless agreed to by the parties.

Law stated - 09 March 2023

Separability

Are there any provisions on the separability of arbitration agreements from the main agreement?

The Arbitration Law provides that an arbitration agreement must be treated as an agreement independent from the other terms of a contract. The Arbitration Law also provides that the rescission, termination or nullification of a contract in which an arbitration agreement is incorporated does not affect the validity of the arbitration agreement, unless the reason for the rescission, termination or nullification is a result of the incapacity of either party.

Law stated - 09 March 2023

Third parties – bound by arbitration agreement

In which instances can third parties or non-signatories be bound by an arbitration agreement?

A third party cannot be bound by an arbitration agreement or an award under UAE law.

Pursuant to article 4(4) of the Arbitration Law, unless the parties have agreed to the contrary, in circumstances where a party to the arbitration agreement dies, the arbitration agreement may be enforced against the party's legal successor.

In the event a contract is assigned to another party, the assignee must expressly agree to be bound by the arbitration agreement.

Law stated - 09 March 2023

Third parties – participation

Does your domestic arbitration law make any provisions with respect to third-party participation in arbitration, such as joinder or third-party notice?

The arbitral tribunal may permit the intervention of a third party only if such party is a party to the arbitration agreement.

Provided that the third party is a party to the arbitration agreement and upon a request from a party to the arbitration or

the third party, the tribunal may authorise the joinder of a third party in accordance with article 22 of the Arbitration Law. However, prior to authorising the joinder of a third party, the parties to the arbitration proceedings and the third party must be given an opportunity to present their statements and objections.

Law stated - 09 March 2023

Groups of companies

Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the 'group of companies' doctrine?

No.

Law stated - 09 March 2023

Multiparty arbitration agreements

What are the requirements for a valid multiparty arbitration agreement?

The Arbitration Law does not specifically recognise or disallow multi-party arbitration agreements. Certain institutional rules, however, recognise multi-party arbitration agreements, which will be applicable if such institutional rules are adopted (eg, the Dubai International Arbitration Centre Rules and the International Chamber of Commerce (ICC) Arbitration Rules).

Law stated - 09 March 2023

Consolidation

Can an arbitral tribunal in your jurisdiction consolidate separate arbitral proceedings? In which circumstances?

The Arbitration Law does not provide for the consolidation of separate arbitral proceedings. Insofar as the relevant institutional rules permit consolidation, consolidation of multiple claims arising from separate arbitration agreements and consolidation of separate arbitral proceedings may be possible. The 2022 DIAC Rules allow the consolidation of multiple claims arising from more than one agreement to arbitrate, provided that the conditions allowing consolidation set out in the rules are met. Further, the LCIA Rules and the ICC Arbitration Rules specifically provide for the consolidation of separate arbitral proceedings. Although there is no concept of binding precedent in the onshore UAE, there are a number of judgments issued by the Dubai Court of Cassation recognising consolidation of arbitrations in certain circumstances.

Law stated - 09 March 2023

CONSTITUTION OF ARBITRAL TRIBUNAL

Eligibility of arbitrators

Are there any restrictions as to who may act as an arbitrator? Would any contractually stipulated requirement for arbitrators based on nationality, religion or gender be recognised by the courts in your jurisdiction?



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11/26

The following arbitrator restrictions apply:

- an arbitrator must be a natural person who is not:
 - a minor;
 - incapacitated;
 - 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; and
- 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.

Law stated - 09 March 2023

Background of arbitrators

Who regularly sit as arbitrators in your jurisdiction?

Arbitrators in the UAE come from varying backgrounds and fields of work. Lawyers are frequently appointed while professionals with an engineering or construction industry background are also frequently appointed, particularly in construction disputes.

Law stated - 09 March 2023

Default appointment of arbitrators

Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

In the absence of an agreement between the parties, the Arbitration Law provides that an arbitration should be heard by three arbitrators, unless otherwise determined by the respective institute. Each party is required to nominate an arbitrator and the chairperson of the tribunal will be 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.

Law stated - 09 March 2023

Challenge and replacement of arbitrators

On what grounds and how can an arbitrator be challenged and replaced? Please discuss in particular the grounds for challenge and replacement, and the procedure, including challenge in court. Is there a tendency to apply or seek guidance from the IBA Guidelines on Conflicts of Interest in International Arbitration?

The appointment of an arbitrator can be challenged under the Arbitration Law if:

- circumstances exist that give rise to justifiable doubts about the impartiality or independence of the arbitrator; or

- the arbitrator does not possess the required qualifications agreed on by the parties.

The procedure to challenge an arbitrator is as follows:

- a challenge to the appointment of an arbitrator must be made in writing within 15 days of becoming aware of the appointment of the arbitrator or within 15 days of becoming aware of any circumstances justifying the challenge. The challenge must be addressed to the challenged arbitrator and copies must be sent to the arbitration counterparties and the other members of the tribunal;
- if the challenged arbitrator does not withdraw or if the arbitration parties do not agree with the challenge within 15 days, the challenging party may require the arbitral institution to make a decision; and
- the arbitral institution must provide its decision within 10 days.

In addition to the above, there may be separate or different procedures applicable under the institutional rules.

The Arbitration Law provides that an arbitrator can be removed and replaced:

- following the death or incapacity of an arbitrator;
- following a challenge of appointment; or
- 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.

The party who appointed the arbitrator is permitted to submit a challenge to the arbitrator's appointment only on grounds that became known to the party after the appointment of the arbitrator.

The IBA Guidelines are also considered and sometimes applied by the tribunal in an arbitration. However, these are not applied or considered by the courts.

Law stated - 09 March 2023

Relationship between parties and arbitrators

What is the relationship between parties and arbitrators? Please elaborate on the contractual relationship between parties and arbitrators, neutrality of party-appointed arbitrators, remuneration and expenses of arbitrators.

There is no contractual relationship between parties and arbitrators. The arbitrators are remunerated by the institution administering the arbitration from funds received as arbitration costs from the parties. Arbitrators, whether appointed by parties or otherwise, are expected to be neutral. In ad hoc arbitrations, the arbitrators' fees are fixed by the arbitrators and, in these cases, the arbitrators may ask the parties for a deposit at the time of their appointment.

Law stated - 09 March 2023

Duties of arbitrators

What are arbitrators' duties of disclosure regarding impartiality and independence throughout the arbitral proceedings?

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

Law stated - 09 March 2023

Immunity of arbitrators from liability

To what extent are arbitrators immune from liability for their conduct in the course of the arbitration?

Under Federal Decree Law 31 of 2021 (the UAE Penal Code), arbitrators are subject to criminal liability in relation to the acceptance of or partaking in the commission of a bribe. The Arbitration Law and most institutional rules provide specific provisions exempting arbitrators from liability.

Law stated - 09 March 2023

JURISDICTION AND COMPETENCE OF ARBITRAL TRIBUNAL

Court proceedings contrary to arbitration agreements

What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

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 prior to 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.

Law stated - 09 March 2023

Jurisdiction of arbitral tribunal

What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated, and what time limits exist for jurisdictional objections?

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 will not preclude it from asserting a jurisdictional objection.

The principle of Kompetenz-Kompetenz is recognised in the United Arab Emirates. A tribunal's decision on its own jurisdiction and competence may be appealed to the Court of Appeal within 15 days of the date of being notified of the decision. The Court of Appeal is required to render its decision within 30 days of the date of registration of the request. However, the timeline for rendering the judgment may vary and is at the discretion of the Court of Appeal. The arbitration proceedings will be stayed until the Court of Appeal has rendered its decision, unless otherwise agreed by the parties.

Law stated - 09 March 2023

Distinction between admissibility and jurisdiction of tribunal

Is there a distinction between challenges as to the admissibility of a claim and as to the jurisdiction of the tribunal?

Any question of inadmissibility of a claim would ordinarily be determined based on whether or not the tribunal has the jurisdiction to hear the claims.

Pursuant to the provisions of the Federal Arbitration Law, a jurisdictional objection must be raised at the latest, at the time of submission of the statement of defence.

Law stated - 09 March 2023

ARBITRAL PROCEEDINGS

Place and language of arbitration, and choice of law

Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings? How is the substantive law of the dispute determined?

Under the Arbitration Law, the default language for arbitration is Arabic and the place of the arbitration will be determined by the tribunal having regard to the circumstances of the case, including the convenience of the parties. The institutional rules also provide the default language and the seat of arbitration in the event that there is no agreement between the parties. For example, the 'initial' seat under the 2022 Dubai International Arbitration Centre (DIAC) Rules in cases where the parties have not determined the location or venue is the Dubai International Financial Centre. In circumstances where there is no agreement between the parties, the tribunal is vested with the power to determine the seat of the arbitration.

Law stated - 09 March 2023

Commencement of arbitration

How are arbitral proceedings initiated?

Arbitration is commenced following the filing of a request for arbitration. The requirements for the request are generally contained in the applicable institutional rules. If arbitration is to be commenced by representatives (including 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.

Law stated - 09 March 2023

Hearing

Is a hearing required and what rules apply?

Pursuant to the agreement of the parties, the arbitral tribunal may decide whether oral hearings shall be held or to continue on the basis of producing documents and other material evidence. If any witness or expert evidence is adduced, a hearing is required to administer the oath, which is a requirement under article 76(4) of the UAE Evidence

Law.

Law stated - 09 March 2023

Evidence

By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

An adversarial approach is generally used in arbitrations where parties are required to adduce their evidence to establish the facts of the case. Depending on the subject matter of the dispute, party-appointed experts are often engaged.

The IBA Rules on the Taking of Evidence in International Arbitrations are the most commonly used rules, and witnesses must be sworn in.

The arbitral tribunal may decide to appoint one or more experts, unless otherwise is agreed by the parties. These experts are not party-appointed; instead, they are appointed by the tribunal. The parties may object to the appointment of an expert, but the tribunal will decide whether to accept the objection.

Law stated - 09 March 2023

Court involvement

In what instances can the arbitral tribunal request assistance from a court, and in what instances may courts intervene?

Local courts can intervene in limited circumstances, including:

- to assist in the taking of evidence;
- to compel a witness to give evidence; and
- to direct a third party to produce documents.

Local courts can also assist in choosing arbitrators only if the court is the institution administering arbitration, if the parties have agreed to seek the assistance of the court or if the institution does not appoint the arbitrators according to the procedures specified by the agreement of the parties. The court's decision in these circumstances is not subject to an appeal.

Law stated - 09 March 2023

Confidentiality

Is confidentiality ensured?

Unless the parties agree otherwise, arbitration proceedings are confidential. Information cannot be disclosed in subsequent proceedings without the consent of the parties. However, the 2022 DIAC Rules provide that this subject disclosure may be required from a party under law, by a legal authority, to protect or pursue a legal right, or to enforce or challenge an award in legal proceedings before the courts.

The 2022 DIAC Rules also require an expert witness to sign an undertaking to ensure confidentiality.

INTERIM MEASURES AND SANCTIONING POWERS**Interim measures by the courts**

What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

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

- preserve evidence;
- preserve goods which constitute part of the subject matter of the dispute;
- preserve assets and funds;
- maintain or restore the status quo; and
- take action that would prevent or refrain from taking action that is likely to cause imminent harm or prejudice to the arbitration process.

Law stated - 09 March 2023

Interim measures by an emergency arbitrator

Does your domestic arbitration law or do the rules of the domestic arbitration institutions mentioned above provide for an emergency arbitrator prior to the constitution of the arbitral tribunal?

The Arbitration Law does not provide for an emergency arbitrator. However, the 2022 Dubai International Arbitration Centre Rules and the International Chamber of Commerce Rules provide for a mechanism for the appointment of an emergency arbitrator.

Law stated - 09 March 2023

Interim measures by the arbitral tribunal

What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

The Arbitration Law empowers the tribunal 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; and
- take action that would prevent or refrain from taking action that is likely to cause imminent harm or prejudice to the arbitration process.

Law stated - 09 March 2023

Sanctioning powers of the arbitral tribunal

Pursuant to your domestic arbitration law or the rules of the domestic arbitration institutions mentioned above, is the arbitral tribunal competent to order sanctions against parties or their counsel who use 'guerrilla tactics' in arbitration? May counsel be subject to sanctions by the arbitral tribunal or domestic arbitral institutions?

No.

Law stated - 09 March 2023

AWARDS

Decisions by the arbitral tribunal

Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required? What are the consequences for the award if an arbitrator dissents?

It is sufficient if the decisions made by the arbitral tribunal are made by a majority of its members, unless the parties agree otherwise. It is common for the parties and the tribunal to agree that the chair of the tribunal may issue procedural decisions on his or her own.

Law stated - 09 March 2023

Dissenting opinions

How does your domestic arbitration law deal with dissenting opinions?

Dissenting opinions are permitted. However, unless the parties agree otherwise, the majority opinion will prevail.

Law stated - 09 March 2023

Form and content requirements

What form and content requirements exist for an award?

The following legal requirements apply for the recognition of an award:

- the award must be in writing and signed by the arbitrators. The signatures of the majority of the arbitrators are sufficient, provided that the reason for any omitted signature is stated;
- unless the parties have agreed to the contrary, the award must include the reasons for the decision; and
- the award must include specific information, including:
 - the names and addresses of the parties;
 - the names, nationalities and addresses of the arbitrators;
 - the text of the arbitration agreement;
 - a summary of the parties' claims, statements and documents;
 - reasons for the tribunal's decision; and

- the date and place of issue of the award.

Law stated - 09 March 2023

Time limit for award

Does the award have to be rendered within a certain time limit under your domestic arbitration law or under the rules of the domestic arbitration institutions mentioned above?

Yes, 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 of the date of the first hearing of the arbitration (which is generally the preliminary hearing). The tribunal may extend this period by up to six additional months, unless the parties agree to a longer extension. In the event the award is not rendered within this period, the tribunal or either party may apply to the court to (1) extend the period or (2) terminate the proceedings.

Law stated - 09 March 2023

Date of award

For what time limits is the date of the award decisive and for what time limits is the date of delivery of the award decisive?

The date of serving the arbitral award is decisive, as any application to set aside the award or a request for correction of the award must be made before the lapse of 30 days following the serving of the award. The tribunal is required to correct the award within a period of 30 days (which may be extended by an additional 15 days) following the receipt of the application. The decision in relation to correction shall be considered supplementary to the arbitral award.

Law stated - 09 March 2023

Types of awards

What types of awards are possible and what types of relief may the arbitral tribunal grant?

Tribunals may grant final awards, partial awards, interim awards and consent orders.

Law stated - 09 March 2023

Termination of proceedings

By what other means than an award can proceedings be terminated?

The Arbitration Law provides that arbitration proceedings may be terminated in the following events:

- the parties agree to terminate;
- the claimant discontinues the arbitration proceedings (unless the respondent requests for this to be continued);
or
- if the tribunal deems the proceedings unnecessary or impossible.

Law stated - 09 March 2023

Cost allocation and recovery

How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

The successful party will ordinarily be able to recover its costs in arbitration. The allocation of costs is at the tribunal's discretion. Generally, the percentage of costs recovered is commensurate with the success of the claims asserted. Costs are not recoverable in the courts of the UAE (as opposed to the courts in the financial free zones). Arbitration costs are recoverable, and legal costs are recoverable subject to there being an agreement between the parties for recovery of legal costs.

A party's management costs are generally not recoverable.

Law stated - 09 March 2023

Interest

May interest be awarded for principal claims and for costs, and at what rate?

Interest may be awarded. If the interest rate is not agreed between the parties, UAE law permits a maximum rate of 9 per cent under the Commercial Transactions Law. In Dubai, the interest rate awarded by the court was recently revised to 5 per cent, and it is expected that arbitrations seated in Dubai will follow suit.

Law stated - 09 March 2023

PROCEEDINGS SUBSEQUENT TO ISSUANCE OF AWARD

Interpretation and correction of awards

Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties' initiative? What time limits apply?

The tribunal may correct any material errors in the award that are clerical or computational on its own initiative or following the request of a party. A request to correct such errors should be made within 30 days of receiving the award.

Law stated - 09 March 2023

Challenge of awards

How and on what grounds can awards be challenged and set aside?

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 was unable to present its case in the arbitration because it was not given proper notice of the appointment of an arbitrator or 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 by procedural irregularity or the arbitral award was not issued within the specified time frame;

- the award goes beyond the arbitrator's scope or the arbitration agreement; however, if those matters can be separated from those on which the tribunal had the authority to rule, only the portion of the award addressing issues on matters not submitted to arbitration may be set aside;
- the subject matter of the dispute cannot be settled by arbitration; or
- the arbitral award conflicts with the public order and morality of the state.

Law stated - 09 March 2023

Levels of appeal

How many levels of appeal are there? How long does it generally take until a challenge is decided at each level? Approximately what costs are incurred at each level? How are costs apportioned among the parties?

There are only two levels of appeal when challenging an arbitral award. Note, however, that no appeal is available on the merits of the award, and, an award can be challenged on limited grounds.

An application to set aside an award must be brought before the Court of Appeal within 30 days of receiving notice of the award. Any appeal must be filed before the Court of Cassation.

Law stated - 09 March 2023

Recognition and enforcement

What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?

A party seeking ratification and enforcement of a domestic award is required to file suit in the Court of Appeal to ratify the award. On ratification, it can be enforced through the local enforcement courts. Since the UAE has ratified the New York Convention, a foreign award may be enforceable in the country provided that the award was rendered in a country that has ratified the New York Convention. The UAE courts generally apply the provisions of the New York Convention in the enforcement of a foreign arbitral award. New regulations have recently been introduced for the recognition and enforcement of foreign arbitral awards, which make the enforcement of foreign arbitral awards faster and easier than the enforcement of local arbitral awards. The UAE courts, and in particular the Dubai courts, tend to look favourably on enforcement of awards.

Law stated - 09 March 2023

Time limits for enforcement of arbitral awards

Is there a limitation period for the enforcement of arbitral awards?

No.

Law stated - 09 March 2023

Enforcement of foreign awards

What is the attitude of domestic courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?

It is unlikely that a local court will enforce an award if it has been set aside by the courts in the seat of arbitration. Article V(1)(e) of the New York Conventions states that the recognition or enforcement of an award can be refused if the award has been set aside.

Law stated - 09 March 2023

Enforcement of orders by emergency arbitrators

Does your domestic arbitration legislation, case law or the rules of domestic arbitration institutions provide for the enforcement of orders by emergency arbitrators?

The Arbitration Law does not specifically provide for such a mechanism. In theory, however, the enforcement of an order by an emergency arbitrator is possible under the same procedure to enforce interim orders.

Article 2(13) of Appendix II of the 2022 Dubai International Arbitration Centre Rules provides that an order issued by an emergency arbitrator shall cease to be binding in the following circumstances:

- if the tribunal discharges the preliminary order upon the application by a party or on the tribunal's own initiative in accordance with article 1(6) of Appendix II;
- if the underlying arbitration proceeding is terminated before the issuance of the final award; or
- the final award does not include or give effect to the preliminary order granted by the emergency arbitrator.

However, since the orders issued by emergency arbitrators are not strictly awards and may be varied or discarded by the tribunal in the final award, parties may face certain challenges at the enforcement stage.

Law stated - 09 March 2023

Cost of enforcement

What costs are incurred in enforcing awards?

The costs involved in enforcing awards depend on the court where enforcement proceedings are initiated. Such costs are not recoverable (other than the court fees).

Law stated - 09 March 2023

OTHER

Influence of legal traditions on arbitrators

What dominant features of your judicial system might exert an influence on an arbitrator from your jurisdiction?

Pursuant to article 5 of the UAE Evidence Law, the parties can agree to the applicable rules of evidence in writing, as long as it is not contrary to public policy.

Pursuant to articles 33 to 35 of the UAE Evidence Law, the court has the power to order a party to produce a specified document upon the request of a party. If the party fails to produce the document (and there is no copy of such document), the court may accept a statement from the party requesting production in relation to the content contained in the document. Further, the court is entitled to draw adverse inferences if a party refuses to produce a document. However, given the recent introduction of these provisions in the UAE Evidence Law, it is difficult to ascertain the

practical application of these provisions.

The IBA Rules on the Taking of Evidence are also often used in the UAE for matters concerning production of documents.

It is common to have expert and witness evidence.

Law stated - 09 March 2023

Professional or ethical rules

Are specific professional or ethical rules applicable to counsel and arbitrators in international arbitration in your jurisdiction? Does best practice in your jurisdiction reflect (or contradict) the IBA Guidelines on Party Representation in International Arbitration?

The Arbitration Law provides that a code of conduct for arbitrators will be issued by the Ministry of Economy, although this has not yet been issued. Counsel will be subject to the relevant codes of conduct that apply in the jurisdictions in which they are licensed to practise. The Dubai Legal Affairs Department has a draft charter for the conduct of advocates and legal consultants.

Articles 275 to 280 of the UAE Penal Code state that any arbitrator accepting or partaking in an act of bribery would be subject to criminal penalties.

Law stated - 09 March 2023

Third-party funding

Is third-party funding of arbitral claims in your jurisdiction subject to regulatory restrictions?

There are no rules on third-party funders in onshore United Arab Emirates. Both the Dubai International Finance Centre and the Abu Dhabi Global Market have specific rules on third-party funding. The recently issued Dubai Decree No. 34 of 2021 contains a new statute of the Dubai International Arbitration Centre (DIAC), which refers to the board of directors of the DIAC being empowered to issue rules regarding arbitration funding.

DIAC has addressed third-party funding arrangements in article 22 of the 2022 DIAC Rules, which expressly recognises and sets out the provisions regarding third-party funding in arbitrations conducted under these rules. Any party that has entered into a third-party funding arrangement must disclose:

- the third-party funder;
- information regarding the arrangement to other parties and to DIAC; and
- whether or not the funder has undertaken liability in the event of an adverse costs order.

Law stated - 09 March 2023

Regulation of activities

What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

The UAE is an Islamic country and adheres to the teaching of Islam. Expatriates are reminded to be respectful to the religion when visiting, working and living in the UAE.

Arbitrators must follow the rules applicable to the specific arbitration proceedings they are involved in, and remain impartial and independent.

On 1 January 2018, the UAE introduced 5 per cent VAT.

In the event a foreign legal practitioner intends to represent a party in an arbitration hearing seated in the Emirate of Dubai, the foreign legal practitioner would be required to submit an application to the Dubai Legal Affairs Department and obtain a no objection certificate.

Law stated - 09 March 2023

UPDATE AND TRENDS

Legislative reform and investment treaty arbitration

Are there any emerging trends or hot topics in arbitration in your country? Is the arbitration law of your jurisdiction currently the subject of legislative reform? Are the rules of the domestic arbitration institutions mentioned above currently being revised? Have any bilateral investment treaties recently been terminated? If so, which ones? Is there any intention to terminate any of these bilateral investment treaties? If so, which ones? What are the main recent decisions in the field of international investment arbitration to which your country was a party? Are there any pending investment arbitration cases in which the country you are reporting about is a party?

Subsequent to the issuance of Dubai Decree No. 34 of 2021, the Dubai International Arbitration Centre published its new rules in 2022, which brought several changes, such as the procedures for the appointment and use of an emergency arbitrator, the rules in relation to third-party funding and expedited proceedings. Given the nascent stage of these rules, the practical application and use of these rules is a topic of ongoing discussion.

Further, on 15 December 2022, Federal Law No. 3 of 2022 on Commercial Agencies was issued (effective from 16 June 2023), which allowed parties to a commercial agency to refer any dispute to arbitration. Prior to the enactment of this legislation, disputes in relation to commercial agencies were not arbitrable. As such, the effect of this legislation is likely to lead to the growth of arbitration in commercial agency disputes in the UAE. However, the practical application of this law is yet to be ascertained.

Law stated - 09 March 2023

Jurisdictions

	Australia	DLA Piper
	Austria	OBLIN Attorneys at Law
	Azerbaijan	GRATA International
	Bulgaria	Kambourov & Partners, Attorneys at Law
	Canada	Singleton Urquhart Reynolds Vogel LLP
	China	Jingtian & Gongcheng
	Croatia	Gugić, Kovačić & Krivić
	Cyprus	N. Pirilides & Associates LLC
	Ecuador	TADIR Dispute Resolution
	Egypt	Shahid Law Firm
	France	Aramis Law Firm
	Germany	rothorn legal
	Ghana	Kimathi & Partners Corporate Attorneys
	Greece	Lambadarios Law Firm
	Hong Kong	RPC
	Hungary	Bán, S.Szabó, Rausch & Partners
	Indonesia	Soemadipradja & Taher
	Ireland	McCann FitzGerald LLP
	Italy	Legance
	Japan	Anderson Mōri & Tomotsune
	Lebanon	Hage-Chahine Law Firm
	Liechtenstein	Gasser Partner
	Luxembourg	Baker McKenzie
	Macau	JNV - Lawyers and Notaries
	Malaysia	Kuruvilla Yeoh & Benjamin

	Netherlands	Houthoff
	New Zealand	Arbitra International
	Pakistan	Axis Law Chambers
	Romania	STOICA & Asociații
	Singapore	Braddell Brothers LLP
	Slovakia	Barger Prekop sro
	South Korea	Kim & Chang
	Spain	King & Wood Mallesons
	Sri Lanka	FJ & G de Saram
	Sweden	Advokatfirman Delphi
	Switzerland	Bär & Karrer
	Thailand	Duensing Kippen
	Turkey	YAZICI Attorney Partnership
	United Arab Emirates	Afridi & Angell
	United Kingdom	Macfarlanes LLP
	USA	Draper & Draper LLC
	Uzbekistan	Putilin Dispute Management
	Zambia	Corpus Legal Practitioners