

Ratification of an arbitral award by a special judicial committee

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Introduction

In the UAE, the process of ratification and enforcement of awards is now more efficient since the publication of the UAE Arbitration Law in 2018. The UAE Arbitration Law provides that domestic arbitral awards shall be enforceable in the same manner as a judicial ruling provided ratification is obtained. If the enforcement of the award is sought in the UAE, a ratification of such an award by the court is required in order to proceed with the enforcement of such an award. Enforcement proceedings shall commence directly before the UAE federal or local Court of Appeal, not before the Court of First Instance which was previously the case before the UAE Arbitration Law was issued. In order to ratify an award, an application must simply be filed with the Chief Justice of the Court of Appeal.

However, in a first, a special judicial committee in Dubai (the Meydan Real Estate Committee) ratified a DIAC arbitral award without the usual requirement of seeking ratification of the award by the Court of Appeal. This article considers the competencies and powers of the Meydan Real Estate Committee, with particular focus on the ratification of arbitral awards.

Background

In this case, our client (a finance company) commenced arbitration against Meydan, a well-known developer, to terminate a sale and purchase agreement and requested a refund of AED 780,506,580 (approximately US\$200 hundred million) on the basis that Meydan failed to comply with the agreement and did not deliver the agreed units to our client, the purchaser. Our client prevailed in the arbitration and obtained an award against Meydan. We then filed an Order on Petition with the Meydan Real Estate Committee to ratify the arbitral award and an order from the Meydan Real Estate Committee was issued ratifying the arbitration award.

In the meantime, and after the execution process of the judgment was commenced, Meydan initiated proceedings before the Meydan Real Estate Committee (which had exclusive jurisdiction) (Action 67 of 2019, 3 of 2020) to nullify the award, revoke the ratification and cancel the execution of the award obtained from the Committee in the Order on Petition. Meydan challenged the validity of the appointment of the Chairman of the arbitration tribunal (on the basis that DIAC's Director General should have appointed the chairman and not the Executive Committee pursuant to the arbitration agreement). The Claimant also argued that the arbitration tribunal violated due process by holding a virtual hearing in Cairo while the seat of Arbitration was in Dubai. However, the court dismissed the grievance and request to annul the arbitral award.

The legal basis of the Meydan Real Estate Committee

In exceptional circumstances, the Ruler of an Emirate or the Minister of Justice, upon the direction of the Ruler, may form a special committee to hear and look into a particular dispute to adjudicate matters or to look into all claims made in connection with a matter. This is usually done on a local level. The committee will be headed either by a Judge or a non-Judge and its decision is final, binding and not subject to appeal.

Resolution 15 of 2019 which established a Special Judicial Committee to adjudicate all matters relating to Meydan and its subsidiaries provides that

“a special judicial committee shall be formed consisting of a president and a number of members, who are nominated by a decision from the Chairman of the Judicial Council, and will be referred to thereon as “The Committee””.

Resolution 15 of 2019, like many resolutions or decrees establishing special judicial committees provides wide powers to the committee to make decisions. However, Article 2 (c) also provides that

“The Committee shall have the same competences and capacities of the President of the Appeal Court.”

Article 2 (c), which does not feature in many resolutions establishing other special judicial committees, thus allows the Meydan Real Estate Committee to ratify awards in a manner similar to the ratification of awards by the Court of Appeal pursuant to Article 55 of the UAE Arbitration Law.

All decisions of the Committee are final and absolute, and are not subject to appeal and shall be executed through the competent Execution Court.

Commentary on the decision of the Meydan Real Estate Committee in this case

As noted earlier, our client’s award was ratified by the Meydan Real Estate Committee. This is the first time a special judicial committee has issued a decision related to the ratification of arbitral awards. The committee also confirmed that the chairman of the tribunal was validly appointed pursuant to DIAC’s arbitration rules and the arbitration agreement which provides that the chairman is to be appointed by the director of DIAC.

The Defendant ultimately sought a dismissal of the action and the grievance on the merits because a case for annulment had not been made out and the arguments raised by the Claimant (Meydan) were not substantiated. After preparations, both matters were referred to the Committee for consideration before its panel. The parties to the action and the grievance attended before the Committee decided to join the related actions in order that they be decided together.

In this case, the Meydan Real Estate Committee was effective in resolving the case expeditiously, addressing the legal arguments in an effective and prudent way and allowing a party to obtain a ratified arbitral award in accordance with the goal of the UAE Arbitration Law. This is encouraging for those who wish to ratify and enforce an award promptly in the UAE. This decision is welcomed by the arbitration community as respecting the special legislative framework that was applicable in this case.