

A Focus on Dispute Resolution: Arbitration and Litigation

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We concentrate on dispute resolution in this month's edition of Law Update.

Oil prices have recovered from approximately USD 50 per barrel last year to around USD 75 per barrel, and it would seem that the number of legal disputes in the Middle East and North Africa ("MENA") region should decrease due to the anticipated soothing effect of petrodollars flowing through the regional markets. Yet, as states in the MENA region are diversifying and growing their economies and becoming less dependent on the price of crude, the number and complexity of pending investment and commercial disputes remains strong in the traditional areas and rising in new sectors and industries.

The most notable change to the UAE dispute resolution landscape over the last year has been the enactment of Federal Law No. 6 of 2018 (the "Federal Arbitration Law"). It came into force in June 2018 and replaced Articles 203 to 218 of the UAE Civil Procedure Code, which had previously governed arbitrations seated in the UAE.

The Federal Arbitration Law has had the effect of modernising the UAE's arbitration framework and bringing it in line with international standards in many ways. The Federal Arbitration Law makes significant changes to the UAE's arbitration regime, which now provides for a more secure framework for the conduct of arbitral proceedings in the UAE, and most of the law's 61 articles can be traced to the UNCITRAL Model Law on International Commercial Arbitration.

The most important changes were discussed in an article titled "[Commentary on the UAE's New Arbitration Law](#)" written by Essam Al Tamimi, Senior Partner, and Sara Koleilat-Aranjo, Senior Associate, of our firm. We encourage you to read this article, which was published in the June-July 2018 edition of the Law Update and is available on our website.

This month's Law Update contains articles on several other notable developments and issues of interest in the context of dispute resolution in the MENA region. Furthering our analysis of the Federal Arbitration Law, this focus section looks at the introduction to the [interim relief provisions](#) of the law with a comparative analysis of similar provisions found in the DIFC Arbitration Law and the ADGM Arbitration Regulations.

In anticipation of a rise in [third party funding in Middle East](#) focused international arbitrations, this section of Law Update contains an article introducing the concept of third party funding and its benefits, and discussing certain aspects, which are of primary relevance to the MENA region.

An article on [Islamic finance](#) in international arbitration argues that this alternative dispute resolution procedure is an efficient and effective method of resolving disputes arising out of institutional Islamic finance and banking deals.

This year marks the [60th anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards \(the “New York Convention”\)](#). In this regard, we have prepared a brief summary providing a retrospect on the New York Convention in the Middle East and highlighting the prospect of its application, particularly in the UAE.

2018 also marks the [DIFC Court of Appeal’s 10- year anniversary](#). This issue contains an article, which reflects on its key judgments and assesses its decisions and procedures with an eye towards its next decade. In his Presentation of DIFC Courts Work Plan 2018 speech earlier this year, the Chief Justice drew the audience’s attention to several key developments in the DIFC Courts’ operation. Two particular innovations will have an impact on the Court of Appeal’s operation. The first is a renewed emphasis on alternative dispute resolution. The second is the increased use of technology throughout the dispute resolution process. These innovations are sure to safeguard the Court of Appeal’s role in the DIFC Courts’ hierarchy in its second decade of work. An article on the validity of arbitration agreements in light of Dubai’s Joint Judicial Tribunal’s decision in [Daman v Oger](#) is also included in the Judgment section in the beginning of this edition.

Additionally, we have an update on the latest decision of the Joint Judicial Tribunal which analyses the legal principles that have emerged since its inception and the impact that it has had on the [DIFC Courts’ status as a conduit jurisdiction](#), with some surprising results. A clear pattern of reasoning is emerging from the judgments of the Joint Judicial Tribunal, which allows legal practitioners in Dubai to predict the outcome in regards to jurisdiction with a greater degree of certainty. This is a welcome development, which has likely contributed to the increased activity in both courts and instils confidence in the legal system in the Emirate.

This Law Update edition benefits from four enlightening articles pertaining to the Kingdom of Saudi Arabia. Starting off with a report on the [arbitration-friendly momentum](#) of the courts in the Kingdom of Saudi Arabia, the initial article offers a brief review of three arbitration-related decisions from that jurisdiction. Then, our lawyers offer a helpful summary on the expert appointment process in Saudi Courts, an [overview of the enforcement of judgments](#), including arbitral awards, through the Saudi Execution Court, and an analysis of an expedited enforcement procedure against [security granted over movable assets](#), which became available by virtue of the recently enacted Commercial Pledge Law.

Our focus on dispute resolution concludes with articles clarifying when a legal entity and/or its representatives may become [criminally liable under Egyptian law](#) and shedding light on a potential risk of running into [parallel proceedings in Iraq](#) due to a broad set of rules applied by its courts.

We trust that you will find this special feature useful and thought provoking. Please contact us for any queries relating to these or other dispute-resolution.