

## PRACTITIONER PERSPECTIVE



**Nazanin Aleyaseen**  
Of Counsel  
K&L Gates LLP

Neal R Brendel, Partner at K&L Gates LLP and Nazanin Aleyaseen, Of Counsel at K&L Gates LLP examine recent arbitration developments in the region and what might be next.

### BACKGROUND

Arbitration is not a foreign or novel form of resolving disputes in GCC countries. In fact, the GCC states have hosted arbitration centres since 1993 and have in place

federal arbitration laws, which are mostly included in each country's federal civil procedure code. For example in the UAE, arbitration provisions are contained in Articles 213-218 of Federal Law No. 5/1985 (Civil Procedure Code) and in Kuwait in Kuwait Law No. 67/1980 and Kuwait Law No. 11/1995.

However, as arbitral disputes are becoming more international, with a substantial number of cases involving at least one non-GCC party, there has been a push for adopting rules and regulations which incorporate international best practices. This, in turn, has led to various measures to modernise, expand and increase the number of arbitration centres and to amend existing federal arbitration laws in order to adopt and conform to this best practice.

### KEY TRENDS

This modernisation has been seen across the region, but more so in the UAE which has become the international arbitration hub for the GCC and the surrounding region.

The UAE now hosts seven arbitration centres: the Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCACC), Dubai International Arbitration Centre (DIAC), Dubai International Financial Centre-London Court of International Arbitration (DIFC-LCIA), Sharjah International Commercial and Arbitration Centre, Ras Al Khaimah Centre for Reconciliation and Commercial Arbitration, the Islamic Centre

for Reconciliation and Arbitration and since September 2014, the Emirates Maritime Arbitration Centre which was established to settle disputes arising from the increasing marine trade transactions in the region.

Very recently, in 2013, the Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCACC) substantially revised its rules by adopting a new procedural regulation modeled, in part, on the UNCITRAL Rules, aimed at improving efficiency. These new regulations have a retroactive effect and are largely viewed as a substantial improvement on the former rules by the members of the international arbitration community.

### LOOKING AHEAD

In recent years, there have been several attempts to amend the federal arbitration law in the form of Articles 203 to 218 of Federal Law No. 5/1985.

Very recently, the Federal Government conducted a review of these relevant provisions and has made recommendations for a standalone federal arbitration law applicable in all Emirates.

The Economy Ministry has released a proposed draft of the law which aims to modernise and replace Articles 203 to 218 and align the Federal Law with the New York Convention. Although it is unknown when or in what form the new law will be adopted, the fact such a law is being considered at all is a clear indication that more changes to the arbitration landscape in the UAE are yet to come.

Similarly, in Qatar, the authorities are also considering an arbitration law but like the UAE, it is unclear when the law will be approved.

work and what we work on, but it also poses significant regulatory considerations like how to retain 'Chinese walls' between our firm's three branches. While our business' advisory branch is not regulated beyond local regulations, which govern the form we were set up in and the license fee we pay, a lot of regulatory analysis is required for our other branches. For example, the first fund we established was in Bahrain, so we were subject to Central Bank of Bahrain regulations. In addition, our Investment Manager and Financial Advisor are DIFC-based and DFSA-regulated so we have to keep up with developments there. We are also finding that keeping abreast with the effects of the Foreign Account Tax Compliance Act (FATCA) is a regulatory priority. Other developments impacting our business include arbitration developments in the UAE. In Abu Dhabi, the Abu Dhabi Commercial Conciliation & Arbitration

Centre (ADCCAC) introduced new Arbitration Rules in 2013 which came into effect in October 2013. There seems to be a concerted attempt to counter the dominance of the DIFC-LCIA arbitration regime and it will be interesting to see whether there is mass commercial migration to Abu Dhabi at the DIFC's expense. However, the DIFC hasn't stood still. In July, its Courts launched a consultation allowing parties who opted into their jurisdiction to also refer their final judgments for enforcement through the DIFC-LCIA Arbitration Centre. If approved this change would mean they are consistent with the position in Article 16.4 of the LCIA Rules 2014 (which provides the law of the arbitration clause will be the law of the designated seat). It will be interesting to see the impact of this but what can be said is that efforts are being made to transform the UAE into a regional arbitration hub.