

Arbitration in Qatar—an introduction

Produced in partnership with [Matthew Walker \(Partner\) and Burak Eryigit \(Senior Associate\) of K&L Gates Doha, Qatar](#)

Arbitration in Qatar—the background

Governing legislation and approach to arbitration

Qatari jurisprudence on arbitration has in recent years entered a phase of important evolution. Legislators working within the legislative council of the Emiri Diwan developed a new arbitration law, which is largely based on the UNCITRAL Model Law on International Commercial Arbitration (UNCITRAL Model Law). The international legal community was also consulted for their input during the development of the new law. Law No 2 of 2017 Promulgating the Civil and Commercial Arbitration Law ('Arbitration Law') was issued on 16 February 2017 and published in the Official Gazette on 13 March 2017. As provided for in Article 142 of the Constitution of Qatar, it came into force 30 days after its publication, on 12 April 2017.

The Arbitration Law applies to all arbitration proceedings in Qatar. This means that arbitrations commenced before 12 April 2017 must also have been conducted in accordance with the Arbitration Law as of 12 April 2017. Since the Arbitration Law is based on the UNCITRAL Model Law, the way arbitration works does not differ much from other jurisdictions. Since Arabic is the official language of the State of Qatar, most of its laws are only officially published in the Arabic language. In this instance, however, the Qatar International Court and Dispute Resolution Centre (QICDRC) was granted the authority to translate the Arabic text of the Arbitration Law into the English language. This translation was officially presented to the public on 12 April 2017 at a seminar hosted by the QICDRC and is available online on the QICDRC's website.

References:

[Law No 2 of 2017 Promulgating the Civil and Commercial Arbitration Law](#)

The Arbitration Law repealed Articles 190–210 of the Civil and Commercial Code of Procedure Law (Law No 13 of 1990) (the CCPL) which addressed general topics such as the formation of the arbitration agreement, appointment and dismissal of arbitrators, anti-suit injunctions, granting and challenging the award and costs. The respective provisions of the CCPL that are applicable to arbitration and post-arbitration proceedings, that are not repealed by Qatar Law No. 2/2017, and that do not contravene the provisions of the Qatari Arbitration Law, still govern arbitration and post-arbitration proceedings in Qatar.

Generally, the Arbitration Law is considered a welcome development by the legal community in Qatar. In the authors' view, one of the key highlights of the Arbitration Law is the inclusion of the Qatar Financial Centre (QFC) Court as one of the supervising courts with jurisdiction to set-aside or enforce arbitral awards. The 'Competent Court' is defined in the Arbitration Law as 'the Civil and Commercial Arbitration Disputes Circuit of the Court of Appeals (ie the local courts), or the Court of First Instance of the Civil and Commercial Court of the Qatar Financial Center, as designated in the agreement of the Parties'. This means that where the parties have agreed to designate the QFC Courts as the competent court, this court will have exclusive jurisdiction to deal with all matters relating to that dispute. The default position is that where the parties fail to agree on the Competent Court, the local courts assume jurisdiction. It is recommended that parties agree on the competent court at an early stage of the arbitration if they wish to designate the QFC Court as the competent court.

In a 'Note on Ruling' dated 17 March 2021, the First Instance Circuit of the QFC Court noted that parties are permitted to choose the QFC Court as the 'competent court' under the Arbitration Law. In the case of *C v D*, which was the case that the QICDRC heard that prompted its 'Note on Ruling', the arbitration clause provided that 'the seat of the arbitration be the [QICDRC] in the Qatar Financial Centre, Qatar (QFC) and the venue of the arbitration shall be Qatar'. According to the 'Note on Ruling,' the QICDRC ruled that '...[a]s the

court of the seat of the arbitration, and the Competent Court under [the new Qatar Arbitration Law], the Court was satisfied that it had jurisdiction’.

The QFC Court is primarily an English language court and most of the judges have a common law background. The QFC Court also widely adopts common law practices and procedures. These judges have the same powers as the local courts to decide matters such as the appointment, replacement or challenge of an arbitrator, suspension of arbitral proceedings, jurisdictional challenges, interim measures, and perhaps most importantly, the enforcement and nullification of arbitral awards.

The Arbitration Law also does away with the requirement that awards need to be lodged with the local courts and it also limits the grounds for nullification of the award.

We summarise below some of the salient provisions of the Arbitration Law and explain how these provisions might affect arbitrations carried out in Qatar in future.

Application of the Arbitration Law

The scope of the Arbitration Law is very broad and includes essentially all matters of a commercial nature. It also provides that in respect of administrative contracts, the approval of the Prime Minister (or their delegate) is required before the parties can agree to settle their disputes through arbitration. Although the term ‘administrative contract’ is not defined in the Arbitration Law, references to administrative contracts appear in other Qatari legislation (such as the public procurement legislation), and is a well-understood concept to lawyers and students from civil code jurisdictions, who will be familiar with the French Law concept of *droit administratif*, on which this provision is based. Furthermore, it provides that disputes involving public entities are non-arbitrable. The Arbitration Law provides that arbitration is not permitted in matters in which conciliation is not permitted.

It also gives guidance on when an arbitration will be considered ‘international’:

- where the principal place of business of the parties is located within different countries
- where the place of arbitration, the place where a substantial part of the obligation is performed or the place with which the subject-matter is most closely connected is located outside the country where the parties’ principal place of business is
- if the subject matter of the dispute is related to more than one country, or
- if the main office of the arbitration institution to which the parties have agreed to is located inside or outside the country.

It still remains to be seen how this last provision is intended to operate in practice. Since the grounds for annulment and refusal of enforcement under the Arbitration Law mirror those provided under the New York Convention, the authors do not expect any difference in enforcement of arbitral awards where the arbitration is or is not considered ‘international’.

Arbitration agreements

Arbitration agreements must be in writing in order to be valid. This includes a signed agreement between the parties which incorporates an arbitration clause, or an electronic document or other form of written communication referencing an agreement to arbitrate.

The Arbitration Law also provides that parties can agree on the existence of an arbitration agreement in their pleadings.

The arbitral tribunal

In ad hoc arbitrations, arbitrators must be appointed from the (pre-approved) registry of arbitrators at the Ministry of Justice. However, the Arbitration Law also provides for the appointment of other individuals as arbitrators, provided that they meet certain criteria as laid down in the law. The Arbitration Law provides that a register will be established at the Ministry of Justice to record arbitrators approved by a decision of the Minister. The Minister of Justice has the power and obligation to issue decisions to determine the conditions and rules for registering and striking off arbitrators in the aforementioned register. The authors are not aware of any such decision having been issued yet; however, we understand that the relevant department at the

Ministry of Justice has been informally compiling names of arbitrators. Article 11 indemnifies arbitrators from liability for exercising their duties, unless this was done in bad faith, collusion or gross negligence.

Jurisdiction of the arbitral tribunal

The Arbitration Law recognises the doctrine of Kompetenz-kompetenz which means that the tribunal has the authority to rule on its own jurisdiction, subject to the parties' right to challenge this decision before the competent court. This is another positive development for arbitration in Qatar, which did not exist under the old arbitration law.

Interim relief

Unless the parties agree otherwise, the tribunal is empowered to issue provisional measures or interim awards. A similar provision did not exist under the old arbitration law. If the party against whom the interim measure is issued fails to comply with it, the other party can also approach the Competent Court for enforcement of the interim award.

In situations where the arbitral tribunal, or any other person to whom the parties have granted certain authority, does not have jurisdiction, or is incapable to act effectively at the time, the competent judge, on the application of one of the parties, may order interim measures, either before the commencement of or during the arbitral proceedings.

Proceedings

The tribunal can decide on the matter based on the documents alone or by way of an oral hearing. Another interesting change from the previous law is that witnesses and experts should not give evidence under oath at the oral hearing but should instead give affirmation. However, hearings must be recorded in some form (ie by way of minutes) unless otherwise agreed by the parties and, having discussed this with experienced local counsel, the view is that the compiling of a minute of the proceedings should be considered as mandatory.

Issuing and challenging arbitral awards

An arbitral award should be issued within the timeline agreed upon or if there is no such agreement, within one month from the conclusion of the proceedings. In all cases, the arbitral tribunal may extend the time limit on its own motion for only an additional month, unless the parties agree otherwise.

The Arbitration Law sets out the formal requirements for issuing of the award:

- the award shall be issued in writing and shall be signed by the arbitrator or, if more than one arbitrator, by the majority of the arbitrators
- the award shall state the reasons upon which the decision is based
- the award shall also state the name of the parties and their addresses, nationalities and the capacity of the arbitrators, a copy of the arbitration agreement, the date of the issuance of the award and the place of arbitration. The award shall also include a summary of the requests, statements and documents submitted by the parties, and
- the award shall state the costs and fees of the arbitration, the party responsible to pay such fees and the procedures for payment

An interesting provision in the Arbitration Law requires the tribunal to send an electronic copy of the award to the administrative department in the Ministry concerned with Arbitration Affairs. There is no obvious penalty for failing to comply with this requirement and it is yet to be seen how this will have practical effect in Qatar. The award also does not have to be signed in Qatar and does not need to be translated into Arabic in instances where it was issued in the English language—at least not unless and until the award is presented to the Qatari Court of Appeal for enforcement.

Additionally, the Arbitration Law sets out limited grounds for challenging the arbitral award. An application for setting aside the award shall not be accepted unless the applicant provides proof of the following:

- any party to the agreement was, at the time of concluding it, incompetent or under some incapacity, or the arbitration agreement is invalid
- the party making the application to set aside was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was unable to present its defence for any other reasons beyond its control
- the award has decided matters outside the scope of the arbitration agreement or in excess thereof, or
- the composition of the arbitral tribunal, the appointment of the arbitrators or the arbitral proceedings was not in accordance with the agreement of the parties

It should be noted that the four grounds above relate to a party's application to challenge or annul the arbitral award. In addition, the Competent Court must decide to set aside the arbitral award on its own motion if the subject-matter of the dispute is not capable of settlement by Arbitration under the law of the State or if the arbitral award is in conflict with the public policy (more commonly understood, within a civil law context, as public order) of the State.

Any such challenges must be made within one month from: the date of receiving the award, the date on which the party making the application is notified of the award or from the date of issuing the corrected award.

Practitioners in Qatar have had different views as to whether, with the enactment of the Arbitration Law, there is still a requirement for the Qatar-seated arbitral awards to be issued in the name of His Royal Highness, the Emir of the State of Qatar. Although there is no explicit legal requirement under the abolished arbitration law or any other law, or in the Constitution of Qatar, there were several court decisions which ruled that Qatar-seated arbitral awards must be issued in the name of His Highness the Emir. Those judgments cited Article 69 of Qatar Law No. 13/1990 as creating the legal basis on which arbitral awards had to be issued in the name of His Highness the Emir. While the Arbitration Law expressly repealed Articles 190–210 of Qatar Law No. 13/1990, it did not repeal Article 69 of Qatar Law No. 13/1990. With a judgment issued in July 2020, the Court of Appeal clarified this issue by dismissing a challenge against an arbitral award that was not issued in the name of His Highness the Emir. The authors envisage that, out of an abundance of caution, arbitral tribunals may continue to issue awards in the name of His Highness the Emir where they are arbitrating a Doha-seated arbitration.

Recognition and enforcement of arbitral awards

Chapter 7 of the Arbitration Law deal with the topic of recognition and enforcement of arbitral awards—setting out the requirements for the application to enforce an arbitral award and providing the grounds on which an arbitral award can be refused.

While arbitration is not the customary method for settling of disputes in Qatar, and the country is still in a developmental phase in terms of arbitral jurisprudence, there are also a number of success stories and positive developments as mentioned above. In a domestic arbitration in which the authors were involved, an award was obtained almost entirely in favour of the claimant against a Qatari state-owned company. The parties were able to agree the procedure for the issuance and lodging of the final award with the court and the claimant received its money (including costs) without needing to proceed to enforcement. It is worth mentioning that this arbitration was conducted under the old arbitration law contained in the CCPL.

It is expected that the introduction of the Arbitration Law coupled with the fact that Qatar has modern dispute resolution centres, will encourage the settling of disputes via arbitration in the State of Qatar. It is also hoped that this will pave the way for Qatar to become an internationally recognised and vibrant arbitration centre in the Middle East.

Enforcement of awards—International Treaties

Pursuant to Emiri Decree No 29 of 2003, Qatar ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) in March 2003 without any reservation under Article I(3). Qatar, as a signatory, is bound by the provisions of the New York Convention.

References:

[New York Convention](#)

Notably, the courts are obliged to recognise written arbitration agreements and to recognise foreign arbitral awards as binding, and enforce these awards in accordance with its own domestic procedural laws. In line with Article III of the New York Convention, the Qatar Court of Cassation in 2006 confirmed that the Qatari courts, when seized with an enforcement action, cannot impose more onerous conditions or higher fees or charges on the foreign awards than it would impose on the enforcement of a domestic award (Appeal No 173/2016) (not reported by LexisNexis® UK). It is worth mentioning that Qatar has also ratified the 1983 Riyadh Arab Agreement for Judicial Cooperation (the Riyadh Agreement) and the GCC Convention for Execution of Judgments. These are regional instruments that provides for the recognition of civil and commercial judgments as well as arbitral awards and adjudications.

References:

[The Riyadh Agreement](#)

Further, although it is not concerned with arbitration, Qatar has also signed the Singapore Convention on Mediation, which may speak to Qatar's willingness to embrace the enforcement of foreign awards/decisions/settlements in Qatar. On 4 November 2021, Qatar enacted the Mediation Law (Qatar Law No. 20/2021 promulgating the Law on Mediation in the Settlement of Civil and Commercial Disputes).

Last but not least, Qatar is also party to the ICSID Convention, as well as to 55 bilateral treaties (23 of which are in force) and further 12 treaties with investment provisions (six of which are in force).

Depending on where the award is made, it may be recognised under a different international treaty or the Arbitration Law. Having said that, given its geographical reach, most foreign awards are recognised and enforced under the New York Convention.

Institutional arbitration

Qatar has its own arbitral institutions. The Qatar International Centre for Conciliation and Arbitration (the QICCA) is the only permanent arbitration institution in Qatar, administering arbitrations under (i) the QICCA Rules, which are based on/inspired by the UNCITRAL Arbitration Rules, and (ii) the UNCITRAL Arbitration Rules (or providing some administrative services). QICCA also acts as appointing authority under the UNCITRAL Arbitration Rules.

The Qatar International Court and Dispute Resolution Centre (QICDRC) and Chartered Institute of Arbitrators (CIArb), both based in the QFC, also market arbitration as a form of dispute resolution pursuant to, respectively, the QFC Arbitration Regulations and the CIArb Arbitration Rules; however, neither of them formally administers arbitrations within Qatar itself.

QICCA was established in 2006 by Emiri Decree No 5/8 in an attempt to create an efficient mechanism to settle disputes among Qatari companies or between Qatari companies and their foreign counterparts. It offers a competitive fee structure and user-friendly facilities available to parties interested in settling disputes in Qatar. QICCA has also published its own set of rules which came in force on 1 May 2012 and is modelled on the 2010 UNCITRAL Arbitration Rules. One noteworthy feature of the QICCA Rules is that they presume that the tribunal is appointed with the power to determine the dispute before it as an *amiable compositeur*, and/or by hearing the dispute on an *ex aequo et bono* basis, unless the parties agree that the tribunal should not enjoy such powers.

References:

[QICCA website](#)

QICCA shares a building with the Qatar International Chamber of Commerce, which is the local chapter in-country of the ICC—albeit operating more as the local commercial representative within Qatar, rather than directly involved with the work of the International Court of Arbitration of the ICC. In contracts involving international parties, the ICC Arbitration Rules remain the most popular choice of institutional rules to govern arbitral disputes within Qatar.

Civil and commercial disputes arising out of contracts and transactions concluded under the QFC Law (Law No 7 of 2005) can also be conducted within the QFC through the QICDRC. The QFC is a free zone that has

its own independent legal system with judges from a variety of common law backgrounds. The QICDRC (formerly known as the Civil and Commercial Court of the QFC) was established by QFC Law No 2 of 2009. It operates as a first instance and an appellate court within the QFC.

References:

[QICDRC website](#)

Since inception, QICCA and the QICDRC have presided over many disputes and serve as reliable and important stakeholders in the development of Qatar's arbitration laws. In particular, the QICDRC has genuinely world-class facilities, and is willing to (and frequently does) host arbitrations governed by other procedural rules within its building.

State (sovereign) immunity in Qatar

The concept of state (sovereign) immunity is twofold: immunity from suit and immunity from execution.

Immunity from suit

In line with public international law principles, state waives its immunity from suit where it has entered into an arbitration agreement. However, as noted under the Arbitration Law, the approval of the Prime Minister (or their delegate) is required before the parties can agree to settle their disputes through arbitration—in respect of administrative contracts. Additionally, under the CCPL, ministries, government institutions and public authorities can be sued in the courts of the state of Qatar.

Immunity from Execution

The Civil Code (Qatar Law No. 22/2004) stipulates that the moveable and immovable property of the State of Qatar or of public juristic persons that is allocated for a public benefit is deemed to be public funds and such funds may not be disposed of, attached or acquired (unless for a public benefit).

The Public and Private State Property Law (Qatar Law No. 10/1987) provides that the Government may, under agreement or pledge, waive the immunity from execution for its public or private funds which are either invested in financial, commercial or industrial activities or deposited in the banks and the existing contractual terms in this regard are valid.

Accordingly, the State can waive immunity both from suit and execution. It is interesting to note that a French Court has on a previous occasion ruled against the State of Qatar in considering a waiver clause in an arbitration agreement (Cass. Civ 1 (France), No. 98-19 068, *Gouvernement de l'Etat du Qatar c. Creighton Ltd*). The court held that the parties intended to waive immunity from execution by referring to the ICC Rules in their agreement. The authors are not aware of any previous or existing cases in which someone has tried to enforce an arbitral award against the State in the Qatari courts; equally, however, the authors are aware of State or quasi-state entities complying voluntarily with the awards of arbitral tribunals, which may be why the issue has not yet arisen in the courts.

References:

[Court of Cassation, Civil Chamber 1, of July 6, 2000, 98-19.068](#)

Current trends and developments in Qatar

Driven by a national plan to broaden the country's economic base, through the Qatar National Vision 2030—allied to its well-publicised and successful hosting of the FIFA World Cup in 2022—Qatar has attracted wide interest and migration in the past decade. Significant investment was made into the construction sector in particular, accompanied by a large number of new entrants into the market in recent years.

Qatar is also a country that has stayed at or near the top of the global net migration charts for most of the last decade, with on average 500 new migrants arriving in Qatar per day in recent years. The combination of these factors—the diverse international background of many of the companies and individuals coming to Qatar, the size and scale of the projects and the relatively time-constrained nature of many of the develop-

ments—has resulted in a sector that is predisposed to disputes due to the high stakes and risks involved (N. Bunni, *Construction Arbitration in the Middle East* (2004) 6 DIAC Journal 6).

There are also other factors that affect parties' decision to arbitrate in Qatar. Arbitration is generally seen as a more flexible and faster dispute resolution process than standard commercial litigation through the Qatari courts. Although the court process in Qatar is cheaper, it is invariably slower. In particular, there is little or no costs-shifting, which can discourage Claimants with strong claims from choosing to litigate in the local courts.

The Arbitration Law has proven to be a major milestone—indicating that Qatar is taking a more commercial, modern and open approach towards private dispute resolution. Enforcement is another area which is continuing to evolve. The Qatari Court of Cassation has established the jurisprudential concept that the authority of the arbitrator and their power to issue an award is a result of an agreement between the parties, rather than an authority deriving solely from the State or its courts. Furthermore, the fact that parties can elect the QFC Court as the Competent Court to enforce arbitral awards, is certainly a positive development as the judges are familiar with and support private dispute resolution.

There are few publicly available statistics on institutional and ad hoc arbitrations seated or enforced in Qatar or having Qatari law as the substantive and procedural law, so it is difficult to accurately determine trends in commercial arbitration. Nevertheless, from the statistics circulated by QICCA in 2021, there were nearly 77 QICCA arbitral awards issued and 11 QICCA mediation cases between 2018 and 2020. Info taken from Qatar Tribune as stated by QICCA Board Member for International Relations Sheikh Thani bin Ali Al Thani speaking during a webinar organised by the Kuwaiti Arbitration Association.

References:

[QICCA issues 77 arbitration awards within two years](#)

As to the ICC, from their 2020 statistics, published in August 2021, it can be seen that there were 48 Qatari parties involved in new ICC arbitrations in 2021—a number that compares with Switzerland (48), South Korea (49) and the Netherlands (50). Doha remains, at eighth in the list, one of the ICC's top ten most popular places of arbitration, with 22 new Doha-seated arbitrations in 2021, only one place (and one arbitration) behind Dubai. The ICC remains more than seven times more popular than the LCIA, which recorded only three new Doha-seated arbitrations in 2021. Finally, the Ministry of Justice recently announced its own statistics for the year of 2022:

- 50 arbitral awards were issued in 2022
- 24% of those arose from construction contracts—main contracts and subcontracts
- 42% of those arbitrations were ad hoc, whereas 58% were institutional
- among the institutional ones, QICCA was the leading institution, followed by ICC
- 53% of those arbitrations were conducted in Arabic, while the rest were in English

While these statistics may not cover every arbitration seated in Qatar in those years, they still give a clear sense of how vibrant the Doha arbitration market remains at present.

It is not uncommon for parties in Qatar to apply to the local courts—seeking annulment of arbitral awards based on public policy considerations. However, the authors are aware that following the promulgation of the 2017 Arbitration Law and in light of the jurisprudential concept developed by the Qatari Court of Cassation, lower courts have been more cautious towards annulment requests.

Last but not least, Qatar recently issued several laws that may affect the formulation of dispute resolution clauses, and may encourage parties to reconsider their choice to arbitrate:

- in October 2021, Qatar issued the Law Establishing the Investment and Commerce Court (Qatar Law No. 21/2021 promulgating the Law Establishing the Investment and Commerce Court). The most significant provisions that may affect the formulation of dispute resolution clauses are the shortened periods for submissions and for appeal submissions
- in late 2021, Qatar issued the Mediation Law, which allows mediation settlement agreements to be directly enforceable by the courts and which enforces confidentiality in mediation. The Mediation Law is expected to encourage parties to adopt mediation as an alternative dispute resolution mechanism

- in September 2021, the Qatari Government enacted amendments to Law No 34 of 2005 on Free Zones and QFC Law, expanding the jurisdiction of the QICDRC to cover the Qatar Free Zones, the Qatar Free Zones Authority and companies registered at the Free Zones
- having been enforced since 1 March 2022, the QICDRC issued a new Practice Direction (No 1/2022) on Small Claims, substantially shortening the time frame to render a judgment

This content is produced in partnership with local law experts and is reviewed and updated periodically by its authors to reflect changes in law and practice. Local law advice should be sought on the matters of law and/or practice covered by this content to ensure you have all relevant information.