

Kluwer Arbitration Blog

Dubai Arbitration Week Recap: New Frontiers in Arbitration – The MENA Region

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Since the inaugural programme in 2014, arbitration practitioners from the MENA region and beyond have come together to share and discuss recent developments in the field of international arbitration during the Dubai Arbitration Week, an annual event that takes place in November. [Dubai Arbitration Week 2018](#) was no exception. It was full of seminars, conferences, and presentations, and filled with networking opportunities, breakfasts, lunches, dinners, and others. The week also featured the [‘Fourth Annual Law Rocks! Dubai’](#).

The underlying theme of [Dubai Arbitration Week 2018](#) was new arbitration-related frontiers in and relevant to the MENA region, such as the new UAE arbitration law, new arbitration institutions (Delos Dispute Resolution), and developments in Africa. This blog post briefly covers some of these.

New Arbitration Law

The last three years have witnessed significant pro-arbitration developments in the legislative and regulatory framework of various countries in the Middle East, such as Bahrain (2015), Qatar (2017), Saudi Arabia (2017), Jordan (2018), and the UAE (2018). [Dubai Arbitration Week 2018](#) placed the spotlight on UAE [Federal Law No. 6 of 2018 on Arbitration](#) (“New Arbitration Law” or the “Law”), which came into effect in June 2018.

The [New Arbitration Law](#) is an important development in the arbitration landscape of the UAE since it repeals the previous outdated Chapter on Arbitration contained in [Articles 203 to 218 of Federal Law No. 11 of 1992 on the Civil Procedures Law](#) (“CPC”). Some of the key aspects of the New Arbitration Law highlighted and discussed during the week were:

1. *International best practice and standards.* The new Arbitration Law is broadly based on the [UNCITRAL Model Law on International Commercial Arbitration](#). The Law expressly incorporates basic, yet fundamental, principles of international arbitration, such as the doctrine of separability, which recognizes that an arbitration agreement is separable from the underlying contract (Article 6), and the principle of competence-competence, which enables arbitral tribunals to decide on their own jurisdiction (Article 19).

2. *Arbitration objection.* Under the old regime, if one of the parties initiates an action in the local

courts, despite the existence of an arbitration agreement, and the other party does not object to such action at the first hearing or session, the action may proceed. In such cases, recourse to arbitration shall be deemed to have been waived by the parties. The ambit of the first hearing was not expressly clear. Did it, for example, include hearings where the defendant did not appear or instances where the defendant appeared only to ask for an adjournment? This led to confusion. Article 8 of the New Arbitration Law titled “adjudication of the dispute containing an arbitration agreement” clears this confusion as it lays down that the concerned court shall decline to entertain the action if the defendant raises an arbitration objection based on an arbitration agreement before making any claim or defence on the merits. This does away with the ‘first hearing’ requirement along with the confusion associated with it.

3. *Interim measures.* The CPC was silent as to whether an arbitral tribunal could render interim measures. Article 21 of the New Arbitration Law now recognizes the arbitral tribunal’s power to award interim measures, including ordering an applicant party to provide adequate security to cover the costs of such measures. A party in whose interest an interim measure is granted can, upon a written authorization from the arbitral tribunal, further seek an enforcement order of such before the competent court.
4. *Efficiency.* The New Arbitration Law significantly improves the efficiency of the arbitration process. A few examples include: continuation of the arbitral proceedings notwithstanding any application for interim measures or a challenge against an arbitrator; a 15-day time limit for the court to determine any challenge to an arbitral tribunal’s positive jurisdictional ruling; and a short six-month time limit from the date of the ‘first hearing’ within which the arbitral tribunal shall render the award. The Law also recognizes and allows the use of technology where possible. Instances include recognition of arbitration agreements concluded via email; the use of virtual hearings, allowing the cross-examination of witnesses and experts not physically present in the hearing room; and permitting awards to be signed electronically.

New Arbitration Institution

Delos, a Paris-based international arbitration institute established in 2014, held its Dubai-edition inaugural event during the Week, having held similar events in Hong Kong (March 2018), Paris (April 2018), São Paulo (October 2018) and Madrid (early November 2018). After Dubai, Delos went to New York for their last inaugural event of the year.

Delos was established to meet time and cost efficiency demands of start-ups and small and medium-sized enterprises. The institution seeks to provide an innovative approach to commercial dispute resolution with an emphasis on time and cost efficiency. This approach is enshrined in the [four principles of its Rules](#). The institution issued its first arbitral award conducted under its Rules last year.

New Arbitration-Related Developments in Africa

During the [Al Tamimi & Company](#) and [CRCICA](#) networking lunch, discussions focused on arbitration in Africa. The [African Arbitration Association \(AfAA\)](#), a non-profit private sector-led association, was launched in June 2018. The launch of the Association was the culmination of a process that began with calls for a body to promote the use of African arbitration practitioners, arbitrators, and arbitration institutions. The AfAA will be based in Kigali, Rwanda (hosted at the Kigali International Arbitration Centre) and will hold its [first General Assembly](#) in early April 2019.

[I-ARB Africa](#), aimed at shining a light on Africa's legal and arbitration experts, made its debut at the Dubai Arbitration Week. I-ARB Africa is also the first online portal dedicated to international arbitration developments related to Africa and African parties. This unique initiative provides members with an open list called 'Africa's 100' containing African arbitration practitioners whose experience in and knowledge of arbitration make them eligible to be appointed as arbitrators. I-ARB Africa also started its very own [podcast](#) this year which hosts dialogues and debates on arbitration-related developments through interviews with African arbitration experts.

Conclusion

As in previous years, Dubai Arbitration Week 2018 provided a platform for arbitration practitioners across both common and civil law jurisdictions and across the region to network and exchange notes. It provided a rare opportunity to get perspectives from arbitrators, practitioners, and staff of international arbitration institutes on the impact of, among other things, the new UAE arbitration law. The wait for Dubai Arbitration Week 2019 begins.

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