

# Abu Dhabi Global Market Courts Enhances its Attractiveness as an Arbitral Seat

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The Abu Dhabi Global Market (“ADGM”) is an international financial free zone and an important emerging seat of arbitration in the GCC region. The ADGM’s arbitration law is based on the UNCITRAL Model Law, with a number of significant enhancements relating to the confidentiality of proceedings, the joinder of third parties, and the waiver of the right to bring an action for setting aside.

The Court of First Instance (“CFI”) of the ADGM Courts (“ADGMC”) is the court designated as the supervisory court for arbitrations seated within the ADGMC’s jurisdiction. 2018 saw the CFI exercising that function for the first time in the cases of A1 v B1 (9 January 2018) and A2 v B2 (11 October 2018). One of these cases involved a pre-claim ex parte application for interim relief which demonstrated the ability of the CFI to organise hearings quickly, use sophisticated document management and international telephone conferencing facilities, and to grant swift and appropriate relief when necessary.

These cases are part of a wider trend. As the ADGMC enter 2019, they can be expected to build on the progress made in 2018. Last year saw an increase to 14 of the numbers of cases brought in the CFI, up from 7 the year before, i.e. a 100% increase. Many of the cases listed cover real property and employment disputes

but, as more companies take offices on the island and residential developments grow, the volume and range of the CFI's docket will surely increase with the ever-greater numbers of contracts subject to the ADGMC's jurisdiction.

The CFI's increased workload comes as the ADGMC signed a memorandum of understanding (the "2018 MOU") revising and updating the mutual and reciprocal recognition and enforcement of, inter alia, ratified arbitral awards between the ADGMC and the Courts of the Emirate of Abu Dhabi represented by the Abu Dhabi Judicial Department ("ADJD"). The 2018 MOU builds on an earlier MOU signed between the same parties in 2016 and Article 13(11) of Abu Dhabi Law No. 4 of 2013, but provides further clarity on the specific processes for reciprocal enforcement which the 2013 law did not cover. The 2018 MOU fills a gap in the relationship between the ADJD-ADGMC identified previously. The 2018 MOU establishes that mutually ratified or recognised awards are to have the same force as a judgment of either of the courts without the requirement of any further ratification or recognition by the other court. Mutual recognition and enforcement also extends to include court-approved settlement agreements (known as 'memoranda of composition') certified by either court. Parties are already benefitting from these enforcement regimes, which are the result, as may be seen, of the collaborative efforts of the ADGMC and ADJD.

As a court of the UAE, the ADGMC is bound by the UAE's international obligations under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958, the Riyadh Arab Agreement for Judicial Cooperation 1983 and Gulf Cooperation Council Convention for the Execution of Judgments, Delegations and Judicial Notifications 1996.

In October 2018, the ADGM's Arbitration Centre opened. The new centre provides parties with state of the art meeting and hearing room facilities. In December, the ADGMC launched "the world's first fully digital courtroom", allowing parties and their representatives to access court documents including court forms and bundles and to attend hearings remotely.

In summary, and as a result of its sophisticated arbitral law, its collaboration with the ADJD, and the effective performance of the CFI of the ADGMC of its arbitration related functions, ADGM is establishing itself as a leading arbitration seat in the region.