

# Kluwer Arbitration Blog

## Can Electronic Signatures in Awards Win the Battle Over Wet Ink Signatures?

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In recent years, the electronic signature of awards has become widely accepted under various laws and institutional rules, particularly as a result of the increased reliance on the virtual world caused by the pandemic. [As discussed in a previous blog post](#), while some jurisdictions still require awards to be signed by wet ink signatures, many seem to accept electronic signatures. However, the transition from wet ink signatures to electronic signatures has not yet been sufficiently achieved even in countries where electronic signature is allowed such as the United Arab Emirates (“UAE”). This post examines the reason electronic signature would be useful in the UAE and the extent to which it is available under the UAE laws and the institutional rules of UAE-based arbitration centres.

### What Does Signing the Award Mean?

The provision for the signing of awards is stipulated in Article 41(3) of the UAE [Federal Arbitration Law No. 6 of 2018 \(“Arbitration Law”\)](#). This article simply states that the arbitrators shall sign the award. One could assume, based on this provision, that a signature is required on the last page of the award where it is usually placed at the signing page. However, [as discussed in another blog post](#), UAE court decisions over the years, both before and after the issuance of the Arbitration Law, have required arbitrators to sign the dispositive and reasoning sections of an award. This requirement applies to awards issued in proceedings that are subject to the Arbitration Law as well as awards which are to be enforced in the UAE, even if seated and issued outside the UAE, as held in the [Dubai Court of Cassation Case No. 403 of 2020 \(Civil\)](#). Accordingly, out of an abundance of caution, a practice developed, particularly amongst UAE-based arbitrators, to sign every page of an award.

The need to sign every page of an award has become so engrained in the practice of the UAE arbitration community that it has been incorporated into the rules of certain UAE-based arbitral institutions. For example, Article 34(6) of the [Dubai International Arbitration Centre Rules 2022 \(“DIAC Rules”\)](#) provides that “[i]f signed in ink, the award shall be signed on each page.” Similarly, the Arbitration Rules of the recently established Abu Dhabi International Arbitration Center (known as arbitrateAD) (“[ADIAC Rules](#)”) stipulate in Article 41(4) that “[t]he Award shall be signed by each member of the Tribunal, and, where required by law, shall be signed on each page.”

In contrast to these provisions of arbitral institutions in the UAE, there is no similar requirement in the rules of leading arbitration institutions. For example, Article 26.2 of the [LCIA Arbitration Rules 2020](#) simply requires signing the award while the [ICC 2021 Arbitration Rules](#) and the [SIAC Rules 2016](#) do not even mention signing the award.

Signing an award on every page could be a rather daunting task and, therefore, arbitrators may prefer to sign awards electronically. A question then arises as to their ability to do so under the applicable law and rules in the UAE.

### **What Does the UAE Law Say About Electronic Signature?**

The UAE has adopted technology in every sector including dispute resolution. Technology was introduced into court proceedings through [Federal Law No. 10 of 2017 amending certain provisions of the Civil Procedures Law No. 11 of 1992](#),<sup>[1]</sup> providing for the use of remote communication technology to conduct proceedings. A year later, technology was introduced into arbitral proceedings through the Arbitration Law. The technology-related provisions in the Arbitration Law were further amended through [Federal Law No. 15 of 2023 \(“Amendment”\)](#).

The Arbitration Law and the Amendment allow arbitral proceedings to be conducted virtually, witness testimony to be heard remotely, and awards to be signed electronically. Article 41(6) of the Arbitration Law contemplates awards being signed electronically as it states in relevant part that:

*“irrespective of how the award was signed, whether by all the members of the Arbitral Tribunal at one sitting or separately by each member to whom the award was forwarded for signature, or by electronic means.”*

Allowing the award to be electronically signed is no surprise given the extent to which the UAE has embraced technology. When an award is submitted to the UAE courts for enforcement, a party is not required to submit an award bearing a wet ink signature. In fact, a party does not submit a hard copy of the award to the courts since an application for enforcement is filed online. Therefore, the UAE courts are, in fact, unable to ascertain whether the award bears a wet ink signature or not, making wet ink signature awards redundant.

### **What Do the Rules of the UAE-Based Arbitration Centres Say About Electronic Signature?**

Institutional rules of the UAE-based arbitration centres have been equally technology-friendly. For example, Article 34.6 of the DIAC Rules provides that:

*“[s]ubject to any mandatory provisions of the procedural law applicable to the seat of the arbitration and after consultation with the parties, the Tribunal may sign the award by electronic means and provide it to the Centre.”*

The electronic signature in this case is not entirely left to the decision of the tribunal as

“*consultation*” with the parties is required before a tribunal can sign an award electronically. The choice of the word “*consultation*” in the DIAC Rules is questionable and implies uncertainty. It may have been more appropriate for the DIAC Rules to require the consent of the parties for the tribunal to electronically sign awards, as the parties have the right to tailor the arbitral process according to their needs. More importantly, a party may consider enforcing the award in a jurisdiction where electronically signed awards are not enforceable. Accordingly, the award should be compliant with the laws of the country of enforcement. However, the tribunal may not have information on where enforcement is intended to take place let alone knowledge of the relevant laws. While it appears that the ultimate decision on electronic signatures rests with the tribunal, it is difficult to imagine a tribunal going against the wishes of a party which has requested the tribunal to sign the award by wet ink signature.

Similar to the DIAC Rules, the ADIAC Rules also allow electronic signatures of awards in Article 41(4), which states that:

“[a]wards may be signed electronically by the Tribunal (including by using software which provides for the digital verification of the signatory’s identity and their intent to sign the document), if deemed appropriate, taking into account all relevant circumstances, including but not limited to the applicable law(s).”

Here again, the parties’ agreement to electronic signature does not seem to be required. However, the requirement to take “*into account all relevant circumstances*” would prompt a prudent tribunal to seek the parties’ views on the question and ultimately respect those views.

Through incorporating the electronic signature option in their rules, the UAE-based arbitration centres are ahead of other leading arbitration institutions whose rules are silent on this point (*e.g.*, the [ICC 2021 Arbitration Rules](#) and the [SIAC Rules 2016](#)). However, it would have been preferable to leave the final decision of electronic signing with the parties for the reasons of party autonomy and enforcement in jurisdictions that require wet ink signatures, as mentioned above. This is, for example, the approach taken in Article 26.2 of the [LCIA Arbitration Rules 2020](#), which allows electronic signing of the award “[u]nless the parties agree otherwise.”

## A Call for Electronic Signature

Although electronic signatures are available under the laws and institutional rules in the UAE, signing awards electronically have not yet become a common practice. While there may be a need for wet ink signatures for enforcement purposes in certain jurisdictions, parties and tribunals do frequently opt for wet ink signatures out of habit. While “*old habits die hard*”, the arbitration community has adapted to conducting arbitral proceedings virtually in recent years. Having made this shift, it is surprising that electronic signatures of awards have not yet become the norm for parties and tribunals in UAE-seated arbitrations. As matters currently stand, electronic signatures in awards have not yet won the battle over wet ink signatures but that can change.

Signing each page of an award in wet ink may be time-consuming, especially when awards run into hundreds of pages, which is common in the UAE given the propensity of high-value construction disputes. Additionally, tribunals are often required to sign several copies of their

awards. In contrast, the ability to electronically sign an award is an exercise in efficiency as it takes just few minutes and only one copy needs to be signed. The electronic signing of awards may also result in parties using only electronic copies of the award as there is no “original” wet ink signature version of the award, thereby eliminating the need to print thousands of pages. Thus, the use of electronic signatures also promotes greener arbitrations.

[1] The Civil Procedures Law No. 11 of 1992 has been replaced by the Federal Civil Procedures Law No. 42 of 2022.

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