

## ~PREFACE~

*The MENA Leading Arbitrators' Guide to International Arbitration* is a guide written by leading arbitrators that regularly serve mandates in the Middle East and North Africa (**MENA**) for arbitrators and legal practitioners that are looking for guidance on the conduct of arbitral proceedings with a seat in the MENA. It has been conceived and is hence published as a sister publication of *The International Leading Arbitrators' Guide*<sup>1</sup> and *The Asian Leading Arbitrators' Guide to International Arbitration*,<sup>2</sup> both published by Juris Publishing in their respective first editions in 2003 and 2007. Each of these has enjoyed great acclaim in the world of arbitration since their publication and we hope that this MENA addition to the series will do, too.

Arbitration in the MENA has become an increasingly important field of practice over the years. Its increasing importance has spawned the growth of arbitral institutions across the region, giving most recently rise to the establishment of the Saudi Center for Commercial Arbitration (**SCCA**) in the Dubai International Financial Center (**DIFC**), Dubai.<sup>3</sup> This development, no doubt, has been in response to the adoption of Decree No. 34/2021,<sup>4</sup> which saw the loss of the DIFC-LCIA from the DIFC arbitration landscape.<sup>5</sup> The establishment of the SCCA Dubai is too recent to allow any informed assessment of its ultimate role and success other than to serve as a brazen example of how far arbitration in the Middle East has come since the sombre days of the first arbitrations arising from the commercialisation of oil concessions in the former Arab Trucial States.<sup>6</sup> Apart from this impressive institutional growth, the legislative landscape of arbitration in the MENA has matured significantly since the early 2000s, many MENA arbitration laws nowadays being modeled on the United Nations Commission on International Trade Law (**UNCITRAL**) Model Law. One of the last laws to have followed the UNCITRAL Model Law mould is the UAE Federal Arbitration Law,<sup>7</sup> which—since its adoption in 2018—has given rise to a fertile jurisprudence by the UAE courts and as such features—some readers may think—disproportionately in the pages that follow. In our view, given the UAE's position as the leading arbitration hub in the Middle East, the

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<sup>1</sup> Now in its third edition and edited by Lawrence W. Newman and Richard D. Hill.

<sup>2</sup> Edited by Michael Pryles and Michael J. Moser.

<sup>3</sup> See Alison Ross, *Saudi centre launches in Dubai*, Global Arbitration Review (13 November 2022).

<sup>4</sup> Dubai Government Decree No. 34 of 2021 concerning the Dubai International Arbitration Centre (**DIAC**).

<sup>5</sup> See Chapter 21 for further detail.

<sup>6</sup> See, in particular, *Petroleum Development (Qatar) Ltd. v. Ruler of Qatar* (1950), *Petroleum Development Ltd. v. Sheikh of Abu Dhabi* (1951), and *Saudi Arabia v. Aramco* (1958). For further detail, see Chapter 24. In addition, see also Gordon Blanke, *Oil & Gas Arbitration in the MENA: An Introductory Overview*, 2(1) IRIArb (2022).

<sup>7</sup> UAE Federal Law No. 6 of 2018.

disproportionate reference to arbitration in the UAE is entirely justified whilst sufficiently counterbalanced by commentary on arbitration practice and procedure in other jurisdictions in the MENA.

The chapters that ensue seek to give a wide insight into arbitration practice and procedure from both the arbitrator's and arbitration counsel's perspective. Some chapters are more subjective in their approach than others and tell a tale of arbitrating in the region from a more personal perspective. Others explore the law and procedure of arbitration, driven by a pursuit of more academic endeavours and aiming to provide as complete a picture of the prevailing practice and procedure across the region as practically possible within the prevailing constraints of space. In this sense, this work is a truly eclectic collection of contributions across a traditional range of subjects that are key to a full understanding of arbitration as an autonomous dispute resolution mechanism, with a focus on the MENA. In addition, this book also contains some sector-specific and otherwise specially-themed contributions, such as chapters on oil & gas,<sup>8</sup> construction<sup>9</sup> and maritime arbitration,<sup>10</sup> a chapter on so-called free zone arbitration<sup>11</sup> as well as investment arbitration,<sup>12</sup> and the arbitration of banking disputes in the MENA.<sup>13</sup> Stand-alone chapters are also dedicated to the important subjects of diversity and more specifically women in international arbitration in the MENA. Given its importance in the region, one contribution also discusses the role of conciliation as a form of dispute resolution.<sup>14</sup> To round off the work with an outlook into the future and personalised views on the virtuous arbitrator (so important within the fledgling profession of arbitration in the Middle East), we are delighted to have Prof. Ibrahim Fadlallah<sup>15</sup> and Alexis Mourre,<sup>16</sup> remembered, amongst others, as the former President of the International Chamber of Commerce (**ICC**) International Court of Arbitration, to share their thoughts.

We would like to thank Prof. Nayla Comair-Obeid for her generosity in accepting to serve as consultant editor of this publication, having guided the editorial process with her unrivalled wisdom and long-standing experience in the field of arbitration in the MENA region. We would also like to thank Toby Hunt, trainee solicitor with Watson, Farley & Williams in Dubai, for his valiant assistance in editing each chapter before its send-off to Juris. Kristen Standfast has been a joy to work with at Juris in New York in her role as Editor, lending

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<sup>8</sup> See Chapter 24.

<sup>9</sup> See Chapter 23.

<sup>10</sup> See Chapter 25.

<sup>11</sup> See Chapter 21.

<sup>12</sup> See Chapter 26.

<sup>13</sup> See Chapter 22.

<sup>14</sup> See Chapter 20.

<sup>15</sup> In his original native—yet no less authoritative—French only. See Chapter 29.

<sup>16</sup> See Chapter 30.

her support wherever and whenever possible. Thanks also go to Michael and David Kitzen for their unfailing belief in the project and their unstinting support to bring this book to publication over the years (despite, what feels, has been an unusually long gestation period). Thanks are also, of course, due to our many contributors, who, apart from the quality of their writing, have blessed us with their patience in updating their respective contributions (sometimes more than once) to ensure that this publication would be as up to date as practically possible when it finally reached the printing press. Last but not least, we would like to thank Gary Born, Chair of International Arbitration Practice Group of Wilmer Hale and former President of the Singapore International Arbitration Centre (SIAC) Court of Arbitration, for taking the time to contribute the Foreword.

We hope that our readership will benefit from the chapters contributed to this book and would, of course, be grateful for any suggestions on how to improve future editions of the work. We can be reached at [gb@blankearbitration.com](mailto:gb@blankearbitration.com) and [SCorm-Bakhos@wfw.com](mailto:SCorm-Bakhos@wfw.com) respectively.

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