

12th
Edition

2018-2019

The
Baker McKenzie
International
Arbitration Yearbook

Saudi Arabia





Saudi Arabia

Abdulrahman Alajlan¹ and Anton Mikel²

A. Legislation and rules

A.1 Legislation

International arbitration in Saudi Arabia is governed by the new arbitration law which was issued in the Kingdom of Saudi Arabia by Royal Decree No. 34/M, dated 24/5/1433H (corresponding to 16 April 2012), to which no amendment has been made since. The new arbitration law replaced the arbitration law issued by Royal Decree No. 46/M, dated 12/7/1403H.

A.2 Institutions, rules and infrastructure

Until recently, there had not been any institutions regulating arbitration in KSA. However, following the issuance of a Council of Ministers' decree in 2014 to form an arbitration center to work under the auspices of the Council of Saudi Chambers, the Saudi Center for Commercial Arbitration (SCCA) was established to supervise domestic and international commercial arbitrations. The SCCA is the first institution of its kind in Saudi Arabia and sets forth rules for conducting arbitrations in accordance with international arbitration standards. Participation in the SCCA is voluntary. The new arbitration law also permits arbitrations in Saudi Arabia to be conducted in accordance with the rules of international arbitration bodies, such as the ICC.

The SCCA held its first international conference in the Saudi capital of Riyadh on 15-16 October 2018. The conference hosted more than 47 experts from 14 countries, including six Saudi government

¹ Abdulrahman Alajlan is a partner in Baker McKenzie's Riyadh office. He has been practicing law in Saudi Arabia for 13 years and has extensive experience in arbitration in the Kingdom.

² Anton Mikel is a partner in Baker McKenzie's Riyadh office. He specializes in litigation and arbitration.

ministers. With the theme “Institutional Arbitration: Its Importance and Impact for Economic Transformation and Investment,” the conference featured delegates discussing issues of importance to multinational companies, law firms, and alternative dispute resolution (ADR) practitioners, including but not limited to: institutional arbitration, the most instructive and pioneering international endeavors, the outlook for the evolution of the arbitration environment, and the latest international developments and their impact on the arbitration industry and investment climate in Saudi Arabia.

B. Cases

In 2017, an arbitration took place involving the Saudi and foreign shareholders of a joint venture. The arbitration involved several issues, including goodwill. The agreement between the parties included an arbitration clause which was added to the agreement twenty-five years ago (the date of the establishment of the joint venture). The arbitration lasted for one year only, which, given the issues, is considered a record time - had the litigation proceeded in court, it would have taken several years to reach a judgment. The significance of the arbitration is the speed of the proceedings (it took one year from commencement to reach an award) and the fact that the award was in favor of the foreign shareholder. Those two factors will bolster the confidence of foreign companies in the arbitration process in Saudi Arabia.

C. Diversity in arbitration

In 2016, Saudi Arabia witnessed the appointment of the first female arbitrator in Saudi legal history. The opposing party had objected to the appointment of a Saudi female lawyer as an arbitrator, but the court overseeing the formation of the arbitral panel dismissed the objection on the basis of her gender and moved ahead with her appointment. The new arbitration law does not require that arbitrators be male.