

What Role Shall Play the Qatar Financial Center Civil and Commercial Court under the new Qatari Arbitration Law?

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The Qatar Financial Center Civil and Commercial Court (“QFC Court”) is considered a Qatari on-shore Court established in 2009 and modelled on leading international corporate courts. Under the new Qatari Arbitration Law (“Law n. 2 of 2017”), the QFC Court has a very decisive role to play.

By Agreement of the Parties, the QFC Court can be appointed jointly as a forum to hear requests relative to nominate an arbitrator/ or chairman of the arbitral tribunal; to replace a nominating authority in case of the latter failure to do so; to decide on the challenge of an arbitrator raised by either party; to terminate the mandate of an arbitrator under specific circumstances; to suspend the arbitration proceedings; and to make necessary corrections or to give interpretation of the award in case the re-composition of the arbitral tribunal is impossible.

Furthermore, the new law has granted to the QFC Court the competence to examine the requests raised by the losing party to challenge an award by way of action of nullity. The causes to seek nullity coincide with the same ones mentioned for setting aside the arbitral award under the UNCITRAL model law (as revised in 2006). The time limit to raise the action for nullity is one month (instead of three months in the UNCITRAL Model law) from the day the award is notified to the Parties.

As for the execution judge at the QFC Court, his role is pivotal as he shall be in charge of ordering interim or conservatory measures upon the request of a party either before the constitution of the arbitral tribunal or after the start of the proceedings. This new Qatari provision is crucial, as it enables the execution judge (called under the new law the “competent judge”) to assist the parties in critical times where it is necessary to order some conservatory measures in case of urgency.

In addition, the QFC execution judge shall be in charge of ordering the enforcement of arbitral awards, whether rendered in Qatar or abroad. The debtor of the award shall be able to seek its non-enforcement by bringing proof on the parties’ incapacity, the invalidity of the arbitration agreement, the irregular appointment or composition of the arbitral tribunal, the violation of due process principle, the ultra-petita nature of the award, etc. Similarly, the QFC execution judge shall have the authority – by its own motion – to refuse the enforcement of an award in case the subject-matter is unarbitrable under the Qatari law or the award is contrary to the public policy in Qatar.