



The joint committee of the Dubai Courts-DIFC Courts

## Dubai Courts approve execution of DIFC Courts-ratified award

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**Ghada Qaisi Audi**, the acting deputy registrar and small claims tribunal registrar of the Dubai International Financial Centre Courts, reports on the first DIFC-LCIA award to be approved for execution by the Dubai Courts pursuant to the Dubai Courts-DIFC Courts Protocol of Enforcement

A joint committee set up by the Dubai Courts and the DIFC Courts has approved the execution of a DIFC-LCIA arbitration award that was recognised and ratified by the DIFC Courts under article 43 of the DIFC Arbitration Law No. 1 of 2008. The award in question - *Property Concepts FZE and Lootah Network Real Estate & Commercial Brokerage* – was rendered by a sole arbitrator and recognised and ratified by the DIFC-LCIA court in October 2010.

The approval of the award by the Dubai Courts provides more certainty about the enforcement of judgments, orders and awards under the 2009 Protocol of Enforcement between the Dubai Courts and the DIFC Courts. The protocol has already led to the successful enforcement of 40 court decisions by the two sets of courts.

The DIFC Courts are common law courts that independently administer justice in the Dubai International Financial Centre free zone, in accordance with Dubai Law No. 9 and Dubai Law No. 12 of 2004 (referred to as the Judicial Authority law) and DIFC Law No. 10 of 2004 (the DIFC Court law). The DIFC Courts interpret and apply DIFC laws and regulations, including the DIFC Arbitration Law.

In adopting the UNCITRAL Model Law on International Commercial Arbitration as the basis of its own arbitration law, the DIFC has signalled a general desire to minimise judicial intervention in arbitration proceedings. The DIFC Courts have two functions with regard to arbitration proceedings: to provide assistance and support and, within specified areas, to supervise and control. Article 10 of the DIFC Arbitration Law (on the extent of court intervention) says: 'In matters governed by this Law, no DIFC Court shall intervene except to the extent so provided in this Law.'

Article 11 sets out the DIFC court's authority to perform functions to assist and supervise arbitration. Under Article 27 of the law the parties are free to agree the seat of the arbitration. In the absence of such agreement, disputes governed by DIFC law are deemed to be seated in the DIFC.

With respect to enforcement, DIFC Law No. 10 of 2004 sets out the provisions for enforcement for matters that fall within and outside the geographic boundaries of the 110 acre DIFC free zone. It vests in the Court of First Instance:

*pursuant to Article 7(4) of the Judicial Authority Law the jurisdiction to ratify any judgment, order or award of any recognised: (a) Foreign court; (b) Court of Dubai or the United Arab Emirates; (c) Arbitral Award; (d) Foreign Arbitral Award; or (e) orders for the purposes of any subsequent application for enforcement in the courts of Dubai.*

Arbitral awards issued in the DIFC can be enforced both inside and outside the DIFC only by an order of the DIFC courts, as the supervisory courts for DIFC-LCIA arbitrations. The Protocol of Enforcement was the result of a joint committee set up by the DIFC courts and Dubai courts in 2008, with the aim of strengthening strategic cooperation – a venture that has also led to the signing of a protocol on jurisdiction. The enforcement protocol sets out the procedure to get a DIFC award ratified by the Dubai courts (as it does the

procedure for ratifying Dubai awards and judgments in the DIFC). It provides that each set of courts will enforce judgments from the other without reviewing the merits of the judgment.

The joint committee continues to meet regularly to develop mechanisms for enhancing judicial cooperation between the two sets of courts. It is comprised of the following members:

**From the Dubai Courts**

- **Judge Jassem Baqer**, head of the Court of First Instance;
- **Judge Omar Atiq Al Marri**, head of the Commercial Court;
- **Yusuf Al Suwaidi**, director of strategy & corporate performance

**From the DIFC Courts**

- **Justice Ali Shamis Al Madhani**;
- **Justice Omar Juma Al Muhairi**;
- **Ghada Qaisi Audi**, acting deputy registrar and small claims tribunal registrar (also the manager of judicial support and communications).

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