



PROGRAMME

Monday 17 February 2020

- 9.00 – 9.10 **Welcome address**
- **Hassan Arab**, Partner, Dispute Resolution, Al Tamimi & Co, Dubai, United Arab Emirates; Member of the Steering Committee, President of the ICC UAE Arbitration Commission
- 9.10 - 9.25 **Keynote address**
- **Alexis Mourre**, President, ICC International Court of Arbitration, Paris
 - **Dr. Jamal Hussain Ahmad Sumaiti**, Judge, Court of Cassation, Dubai Courts, United Arab Emirates
- 9.25 – 9.50 **Opening key note speech: The quest for cosmopolitan arbitration in the MENA region: Where do we stand now?**
- **Karim A. Youssef**, J.S.D., Managing Partner, Head of International Arbitration & International Law, Youssef & Partners, Cairo, Egypt
- 9.50 – 10.50 **Session 1 – Recent developments and best practices in construction arbitration in the MENA**
- Recent political and resulting economic challenges in the region have increased the volatility of the construction sector. Consequently, the number and complexity of disputes in this sector is increasing and is further compounded by significant cases of restructuring and bankruptcy. On this first panel, eminent speakers will address topical issues resulting from the evolution and the growing sophistication of the construction dispute resolution sector in the region, including:
- Claims management – users’ and arbitrators’ perspectives on best practices on termination, works suspension, taking over certificates and more
 - Conditions Precedent under FIDIC: How sacred are they in the Middle East?
 - The insurance angle: Design exclusions, LEG exclusions and issues of limitation etc.
 - Performance bonds in construction contracts – recent experience
 - The role of third-party funding in the Middle East
- **Richard Harding QC**, Barrister and arbitrator, Keating Chambers, United Kingdom
 - **Yasemin Cetinel**, Founding Partner, Cetinel Law Firm, Turkey
 - **Nada Sader**, Partner, Derains & Gharavi International, Lebanon
- Chaired by:
- **Živa Filipič**, Managing Counsel, ICC International Court of Arbitration, Paris
- 10.50 – 11.15 **Discussion**

11.15 – 11.35 *Coffee Break kindly sponsored by Shahid Law*

11.35 – 12.35 **Session 2 - A civil/common law judicial roundtable on the review and enforcement of arbitral awards**

This roundtable will feature eminent judges from various MENA jurisdictions (Dubai Courts, DIFC Courts, Lebanon and Egypt) who will share insightful updates with the audience around the major recent developments in international arbitration in their respective jurisdictions. During this roundtable the following topical issues will be covered:

- Res judicata
- Awarding interest awards
- Enforcement of interim measures
- Annulment and enforcement of awards
- The case law of Dubai-DIFC Joint Judicial Tribunal

- **Dr. Saif Ahmad Alhadad AlHazmi**, Judge, Court of Cassation, Dubai Courts, United Arab Emirates
- **Shamlan Al Sawalehi**, Judge, Court of Appeal, DIFC Courts, United Arab Emirates
- **Moustafa Mahmoud Ali El Sharkawy**, Judge, Court of Appeal, Dubai Courts, United Arab Emirates
- **Zalfa El Hassan**, Judge, Lebanon
- **Nabil Omran**, Deputy Chief Justice, Court of Cassation, Egypt

Chaired by:

- **Georges Affaki**, Partner, Avocat à la Cour, AFFAKI, France; Council Member, ICC Institute of World Business Law

12.35 – 13.00 **Discussion**

13.00 – 14.30 *Lunch (Thai Kitchen) generously by Al Aidarous Advocates and Legal Consultants and Diales*

14.30– 15.15 **Session 3 - Arbitrating M&A disputes in the MENA**

This first afternoon panel will discuss the efficiency of the existing approaches in addressing the substantive and procedural issues frequently encountered in MENA seated arbitrations, and possible new solutions. It will explore different areas of M&A disputes including:

- **Post-closing and purchase price adjustment disputes:** expert determination vs arbitration, interim measures/parallel proceedings; locked-box mechanism, net asset price adjustment vs earn-out price adjustment as an earnings based price adjustment mechanism;
- **Indemnity disputes:** Time bar and other recurring questions in indemnity claims
- **Breach of warranty:** The lack of a standardized set of representations and warranties

- **Demet Kaşarcıoğlu**, Senior Associate, Esin Attorney Partnership, Turkey
- **Marwan Sakr**, Member of the Beirut and Paris Bars, admitted before the DIFC Courts, Chartered Arbitrator; Partner, SAAS Lawyers, Lebanon
- **George Traub**, Managing Partner, Lumina Capital Advisers, Dubai, United Arab Emirates
- **Omar Zizi**, Lawyer, Member of the Paris Bar, Allen & Overy, Morocco

Chaired by:

- **Dany Khayat**, Partner, Head of Litigation and International Arbitration, Mayer Brown, France

15.15 – 15.45 **Discussion**

15.45 – 16.15 *Coffee Break kindly sponsored by Linklaters and Diales*

16.15 – 17.00 **Session 4 - A different way of resolving complex disputes in the MENA: the use of ADR mechanisms**

In this closing session, a distinguished panel of arbitrators, mediators, dispute board members, users of ADR services, as well as a representative of the ICC International Centre for ADR will share their experience and insights on the use of ADR in resolving complex commercial and infrastructure disputes in the MENA region, around the following topics:

- The importance of multi-tiered dispute resolution clauses:
 - o How to draft efficient multi-tiered clauses and avoid having pathological clauses
 - o Non-complying with pre-arbitral steps: how does the ICC Court and arbitrators deal with objections?
 - Mediation and Conciliation help the parties settling or better understanding complex disputes:
 - o Multi-contract and multiparty cases: dealing with the complexity of relations between the parties
 - Expertise and Dispute Boards are useful tools for preventing and resolving construction disputes:
 - o The preventive and decision-making role of standing Dispute Boards in construction projects
 - o The use of Experts in construction projects
- **Pierrick Le Goff**, Partner, De Gaulle Fleurance & Associés, France; Affiliate Professor, Sciences Po Law School, Paris
 - **Diana Paraguacuto-Mahéo**, Partner, Foley Hoag LLP, France
 - **Lindy Patterson QC**, Arbitrator and Adjudicator, 39 Essex Chambers, United Kingdom
- Chaired by:
- **Alya Ladjimi**, Manager, ICC International Centre for ADR, Paris

17.00 – 17.30 **Discussion**

17.30 – 17.50 **Closing Speech: Climate change challenges in international arbitration**

- **Ristead de Paor**, Partner and Head of International Environmental Disputes, Dentons, Spain

17.50 – 18.00 **Concluding remarks**

- **Sami Huerbi**, Director for Eastern Mediterranean, Middle East & Africa, ICC International Court of Arbitration, Abu Dhabi/Tunis

18.30-20.30 *Cocktail Reception – Palm Garden, Park Hyatt*