

SCCA issues Saudi Arabia's first contribution to the UNCITRAL Digest of Case Law on the Model Law on International Commercial Arbitration

July 2025

On 1 July 2026, the Saudi Center for Commercial Arbitration (SCCA) issued a country report covering arbitration in Saudi Arabia (Report). The Report was prepared in response to an invitation from the United Nations Commission on International Trade Law (UNCITRAL) for Saudi Arabia to contribute to the revision of the UNCITRAL Digest of Case Law on the Model Law on International Commercial Arbitration (Digest). The Digest is a tool developed in 2001 to provide a structured overview of global judicial decisions and arbitral awards that interpret the UNCITRAL Model Law, with a view towards helping legal professionals understand how its provisions are applied worldwide.

The Report, being Saudi Arabia's first contribution of its kind, performed a comprehensive study of the Saudi arbitration framework through a legislative analysis of the Saudi Arbitration Law (Arbitration Law) *vis-à-vis* the UNCITRAL Model Law and case law analysis of Saudi judicial practice. The Report further examined the provisions of the new draft of the Saudi arbitration law yet to be passed as of the date of this article (Draft Law).

Squire Patton Boggs Al-Akkas was invited by the SCCA among selected law firms to review the Report prior to its official release. In this article, we examine key topics, judicial precedents and trends in Saudi arbitration featured in the Report and how they compare to international practice.

Arbitrability

Matters capable of arbitration (*i.e.*, arbitrability) vary by jurisdiction. As a Model instrument, Article 1(5) of the UNCITRAL Model Law does not impose arbitrability parameters on jurisdictions. Rather, it "recognizes the primacy of national laws that may exclude certain disputes from arbitration or impose specific conditions on their arbitrability."¹ It provides: "*This Law shall not affect any other law of this State by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Law.*"

According to the Report, an important distinction in arbitrability is "*that the mere existence of legislation designating a competent court or prescribing specific procedures does not, in itself, render a dispute non-arbitrable.*"² It notes that comparative practice indicates that assigning certain disputes within the jurisdiction of a specific court or administrative authority does not, in and of itself, exclude a dispute from arbitration.

Article 2 of the Arbitration Law addresses arbitrability, simply limiting non-arbitrable matters to personal status matters and disputes not subject to reconciliation. The Report examines Saudi judicial practice in regards to arbitrability and generally finds that it is aligned with comparative practice, particularly that Saudi courts have declined to exclude disputes from the scope of arbitration.³

The Report also confirms that Saudi courts do not exclude disputes merely because they fall within the jurisdiction of a specific authority. However, a limited exception has emerged in relation to value-added tax (VAT) disputes. The Report identified two cases in which two different courts, the Riyadh General Court of Appeal and Madinah General Court of Appeal, partially annulled arbitral awards insofar as they addressed VAT matters, holding that VAT disputes fall within the exclusive jurisdiction of the Tax Dispute and Violation Resolution Committees.⁴

¹ Report, p. 133.

² Report, p. 40.

³ Report, p. 40.

⁴ Riyadh General Court of Appeal, Case No. 4430821540, 13 April 2023; Madinah General Court of Appeal, Case No. 4530586898, 3 July 2024. The Tax Dispute and Violation Resolution Committees was established by Royal Decree No. M/113 dated 25 July 2017 (2/11/1438H)

Separability of arbitration clauses and competence of the arbitral tribunal

The Report examined the application of core arbitration principles existing in the UNCITRAL Model Law and comparative practice, and how those are reflected in the Arbitration Law and judicial practice.

The separability of arbitration clauses from their container contracts (the doctrine of severability) is a core principle of arbitration and an essential tool to its survival. It is recognized by the UNCITRAL Model Law (Article 16), as well as the Arbitration Law (Article 21). The Report examined the extent to which Saudi courts uphold the doctrine of separability where the underlying contract is rendered invalid, rescinded or terminated.

According to the Report, Saudi judicial practice reflects a clear and consistent adherence to the doctrine of separability, repeatedly holding that the arbitration clause constitutes an independent agreement that survives the invalidity, rescission or termination of the underlying contract.⁵ Even where the whole contract is declared null and void, Saudi courts have maintained the validity of the arbitration clause, provided the clause itself is not pathological.⁶

The doctrine of *kompetenz-kompetenz* is another fundamental principle of arbitration also found in Article 16 of the UNCITRAL Model Law. It empowers the arbitral tribunal to determine its own jurisdiction, including objections concerning the existence, validity or scope of the arbitration agreement. Article 20 of the Arbitration Law embraces this principle. Similar to the doctrine of separability, the Report confirms that Saudi courts have consistently upheld this principle.⁷

In one case in the Eastern Province, the court held that the arbitration clause remained valid independent of the underlying contract, despite the respondent's arguments that the contract itself had been superseded by a subsequent agreement. The court further ruled that the arbitral tribunal is competent to decide on its jurisdiction, including determining objections relating to the existence, validity or scope of the arbitration agreement, in accordance with Article 20 of the Arbitration Law. Accordingly, the court deferred to the arbitral tribunal rather than exercising any jurisdiction over the respondent's objection, as prescribed by Article 20.⁸

Constitution of the arbitral tribunal

The Report identifies two peculiar aspects arising under the Arbitration Law and judicial practice regarding the constitution of the arbitral tribunal: (i) number of arbitrators, and (ii) qualifications of the arbitrator.

Article 13: number of arbitrators

Article 13 of the Arbitration Law requires that "[t]he arbitration tribunal shall be composed of one arbitrator or more, provided that the number of arbitrators is an odd number; otherwise, the arbitration shall be void." The counterpart of this provision in the UNCITRAL Model Law is Article 10, which gives parties freedom to decide the number of arbitrators. However, unlike the Arbitration Law, it does not require that the number shall be odd.

The Report indicates that Saudi courts have previously annulled arbitral awards on the basis that they were rendered by two-member "truncated" tribunals, suggesting that a violation of Article 13 of the Arbitration Law is grounds for annulment under Article 50 of the same. In a Riyadh case, the court annulled an additional award because it was issued by only two arbitrators, while the third arbitrator neither attended the hearings nor participated in the deliberations. The court emphasized that the tribunal should have instead terminated the arbitrator's mandate and appointed a replacement arbitrator.⁹ Similarly, the Riyadh commercial court annulled an arbitral award issued by a two-member tribunal after the third arbitrator resigned.¹⁰ There, the court annulled the award pursuant to Article 50(1)(e) of the Arbitration Law, holding that the failure to appoint a replacement arbitrator and complete a three-member tribunal rendered the arbitration proceedings in violation of the parties' agreement and the law. It also implied that the violation of Article 13 is a matter of public policy implicating Article 50(2) of the Arbitration Law.

Article 14: Arbitrators qualifications

The Report examined whether Saudi courts have considered an arbitrator's failure to satisfy the statutory qualifications as sufficient grounds to challenge the arbitrator, and/or annul arbitral awards. Article 16(3) of the Arbitration Law, like the UNCITRAL Model Law, permits challenging arbitrators who fail to meet the qualifications agreed upon by the parties. However, unlike the UNCITRAL Model Law, the Arbitration Law extends this to include statutory qualifications. These qualifications are set out in Article 14 of the Arbitration Law:

1. Be of full legal capacity.
2. Be of good conduct and reputation.
3. Be a holder of at least a university degree in Sharia or law. If the arbitration tribunal is composed of more than one arbitrator, it shall be sufficient that the chairman of the tribunal meets such requirement.

⁵ Jeddah General Court of Appeal, Case No. 4430585396, February 13, 2023; Report, p. 70.

⁶ Al-Qassim Court of Appeal, Case No. 4630778016, February 20, 2025; Report, p. 70.

⁷ Report, p. 69.

⁸ Eastern Province General Court of Appeal, Case No. 4530332712, October 19, 2023.

⁹ Riyadh Labor Court of Appeal, Case No. 4630675259, 23 January 2025.

¹⁰ Riyadh Commercial Court of Appeal, Case No. 437595561, 7 February 2022.

The Report demonstrates that Saudi judicial practice has adopted a strict approach in enforcing these statutory qualification requirements. In one case, the Riyadh General Court of Appeal annulled an arbitral award finding that the presiding arbitrator did not satisfy the requirement under Article 14 to hold a university degree in Sharia or law. Particularly, the court found that this was a violation of a mandatory provision of the Arbitration Law, and thus a violation of public policy under Article 50(2).¹¹

Article 14 represents a departure from the UNCITRAL Model Law and comparative practice. As the Report now confirms, however, the Draft Law removes the requirement that arbitrators hold a degree in law or Sharia, giving deference to party autonomy and aligning the forthcoming Saudi arbitration law more closely with prevailing international practice, particularly in disputes of a technical nature.

Scope of judicial review and annulment of arbitral awards

On the topic of the scope of judicial review, the Report confirmed that Saudi courts adopt a narrow approach to reviewing arbitral awards, reinforcing the application of Article 50(4) of the Arbitration Law.

The Report builds upon and expands the SCCA's prior studies of Saudi judicial practice, three of which were previously analyzed by Dara Sahab in her capacity as the Deputy Chief of ADR at the SCCA.¹² SCCA's prior studies, now reinforced by the Report, have provided empirical data on the strength of arbitral awards in Saudi owing to the courts' deference to the arbitral process, among other things. In short, the Report captured the combined results of the cases analyzed therein along with the SCCA's prior studies, as follows:

“When these findings are considered cumulatively, the total number of judgments analyzed exceeds 3,300 issued between 2017 and 2025, including 565 annulment applications. Of these, 518 were rejected, representing 91.7 percent of all annulment requests, while only 47 motions were accepted (8.3%). Full annulment was ordered in 31 cases (5.5%), and partial annulment in 16 cases (2.8%). Annulment based on Sharia or public policy was limited to 13 cases (2.3%).”

We examined several of the annulled cases, particularly the grounds that Saudi courts characterized as violations of Sharia or public policy. Notably, case law in the Report demonstrates that Sharia and public policy are distinct principles, and while they essentially cover the same area, a public policy violation does not necessarily implicate Sharia.

In January 2025, the Jeddah Court of Appeal annulled an arbitral award on the basis that it misapplied mandatory provisions of the law, and thereby violated public policy under Article 50(2). There, the arbitral tribunal dismissed the case on the basis that the statutory time limitation had lapsed under Article 296(b) of the Civil Transactions Law.¹³ The court, however, held that the arbitral tribunal misapplied the law by retroactively applying the statutory limitation periods of the Civil Transactions Law, which came into force in December 2023, to a matter that commenced prior to that, despite the Civil Transactions Law expressly excluding the retroactive application of its statutory time limitations.

Similarly, the Riyadh court of appeal annulled an arbitral award in 2023 on grounds of violating public policy because it violated mandatory provisions of the law. The dispute concerned a lease agreement that the parties chose not to register on the required e-government platform (Ejar). The arbitral tribunal nonetheless treated the lease as valid and, in its award, ordered the parties to register it. The court considered the relevant law requiring registering lease agreements, otherwise they are deemed invalid and do not produce legal or administrative effects. The court held that the arbitral award violated the applicable law requiring registration as a condition of validity, and as such it annulled the arbitral award for violating public policy.¹⁴

Draft arbitration law and its compatibility with the UNCITRAL Model Law

In September 2025, the Saudi Competitiveness and Business Center circulated the Draft Law for public consultation, which will likely soon be passed into law. The Report helpfully performed a legislative comparison not just between the current, and still applicable, Arbitration Law, which is also UNCITRAL Model Law-based, but also goes further as to compare the Draft Law to the UNCITRAL Model Law. As this article and the Report demonstrate, the Arbitration Law and judicial practice are largely compatible with the UNCITRAL Model Law in its core elements. However, there are areas currently in the Arbitration Law that impose limitations or additional constraints to those existing under the UNCITRAL Model Law (e.g., arbitrator qualifications under Article 14). The Draft Law cured most of these limitations, including removing the Sharia or law degree requirement of a sole/presiding arbitrator, removing the default 12-month timeframe for an arbitration proceeding and removing the requirement to deposit the arbitral award with the competent court prior to ratification and enforcement.

¹¹ Riyadh General Court of Appeal, Case No. 4530325161, 23 October 2023.

¹² See Dara Sahab, SCCA Saudi Case Law Study: Three Years in Review, 41(6) J. Int'l Arb. 723 (2024)

¹³ Jeddah General Court of Appeal, Case No. 4630656012, January 16, 2025; Report, p. 104.

¹⁴ Riyadh Court of Appeal, Case No. 4530340196, October 22, 2023; Report, p. 105.

Additionally, the Draft Law regulates areas not covered by the Arbitration Law, such as joinder, intervention and consolidation, arbitrator immunity and adding a comprehensive framework for tribunal-ordered interim and precautionary measures, including recognizing the emergency arbitrator and enforcement of interim and precautionary measures.

Conclusion

The Report provides a first of its kind inside look and overview of the Saudi arbitration framework, and will serve to guide many practitioners on pertinent procedural matters particularly as compared to other UNCITRAL Model Law jurisdictions. Notably, the Report confirms the arbitration-friendly approach adopted by the judiciary, which we anticipate will be bolstered by the forthcoming passing of the Draft Law.

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