

# Dubai Issues Decree Reforming its Arbitration Centres

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The Government of Dubai issues Decree No. (34) of Year 2021 Concerning the Dubai International Arbitration Centre (“**DIAC**”) effectively abolishing the Emirates Maritime Arbitration Centre (“**EMAC**”) and the Dubai International Financial Centre Arbitration Institute (“**DAI**”).

## Introduction

Issued on the 14<sup>th</sup> of September 2021, Decree No. (34) of Year 2021 Concerning the DIAC (the “**Decree**”) came into force just six days later on the 20<sup>th</sup> of September 2021. The Decree establishes the DIAC, the single unified arbitration centre for Dubai. As per Article 1 of the Decree, the DIAC is a non-governmental centre and is financially and administratively independent from the Dubai Government. The DIAC shall be headquartered in Dubai while a branch will be located in the Dubai International Financial Centre (“**DIFC**”).

With the new DIAC, the EMAC and the DAI has been abolished with immediate effect. Accordingly, all of EMAC’s and DAI’s assets, employees and financial allocations will be transferred to the DIAC. As for existing arbitration cases and agreements referencing EMAC Arbitration Rules and DIFC-LCIA Arbitration Rules, the Decree has set down the process for the transition to the DIAC.

## The Decree

To facilitate the transition to the DIAC from the abolished centres, the Decree has set out the following:

- **Article 6(A):** all agreements referring to the arbitration rules of EMAC and DAI concluded by the 20<sup>th</sup> of September 2021 shall remain valid and effective
- **Article 6(B):** all arbitral tribunals constituted by 20<sup>th</sup> of September 2021 shall continue under the same arbitration rules of the abolished centres without interruption
- **Article 7:** Dubai Courts and DIFC Courts shall continue to hear cases concerning arbitration awards and other arbitration-related measures subject to the same arbitration rules
- **Article 9:** the DIAC has 6 months from 20<sup>th</sup> of September 2021 (i.e. until 20 March 2022) to conduct the transition from EMAC and DAI to DIAC as set down by the Decree

Besides the provisions mentioned above, the DIAC will also form a new arbitration court and its Board of Directors shall appoint 13 members, including the President and Vice President, with local and international arbitration expertise for a non-renewable term of 4 years.

## Effect

With a transition period of 6 months, it is essential that transitional arrangements regarding the administration of arbitration cases under EMAC and DAI be clarified.

The DIFC-LCIA Arbitration Centre, a centre jointly created by the London Court of International Arbitration (“**LCIA**”) and the DAI, has released a statement on the 20<sup>th</sup> of September 2021 stating that the LCIA is currently in discussion with the Government of Dubai on how current and future cases subject to the DIFC-LCIA Arbitration Rules will be properly managed. This is in light of the fact that the DIFC-LCIA also accounts for critical aspects of arbitration cases and may result to a situation similar to EMAC and DAI.

Moreover, as DIFC-LCIA and EMAC arbitration rules are commonly referenced in model dispute resolution clauses, businesses who have adopted the same will now have to consider new dispute resolution clauses. As per the Decree, the following should be considered in drafting dispute resolution clauses or arbitration agreements:

- If an agreement specifies the seat or place of arbitration to be the Emirate of Dubai, the agreement shall be subject to Federal Law No. (6) of 2018 on Arbitration. In such a case, the Dubai Courts shall have jurisdiction over any case arising from the agreement.
- If the indicated seat or place of arbitration of an agreement is the DIFC, the agreement shall be governed by the DIFC Law No. 1 of 2008. In this case, the DIFC will have jurisdiction.
- If the parties fail to decide on the seat of arbitration, the DIFC will automatically be deemed as the place of arbitration.
- Parties can agree on having the hearings remotely through electronic means.

## Conclusion

Although the abolition of the EMAC and DAI came as a surprise, there are high hopes for the DIAC. With the DIAC being the single unified arbitration centre in Dubai providing arbitration services both locally and internationally, the DIAC is aimed to become the leading centre for alternative dispute resolution.

## Disclaimer

This article is for informational purposes only and shall not be considered as legal advice or opinion.