GROUNDS FOR REFUSAL OF ENFORCEMENT OF FOREIGN COMMERCIAL ARBITRAL AWARDS IN GCC STATES LAW

WITH SPECIAL REFERENCE TO BAHRAIN AND UAE

Dr. Mohamed Saud Alnasair Alenaze

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By

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PREFACE

This book posed the question whether foreign arbitral awards are enforced in accordance with the demands of the New York Convention in the UAE and Bahrain and moreover whether the conditions for enforcement compel the conclusion that these two nations are enforcement-friendly in the same manner as leading arbitral nations such as the UK, France, Hong-Kong and NYC. On the basis of legislative and judicial practice in the UAE and Bahrain it was found that Bahrain and all UAE emirates, with the exception of Dubai, are enforcement friendly and more importantly place few constraints on the enforcement of foreign awards. Dubai is also enforcement-friendly but a small number of decisions, particularly Bechtel, leave significant latitude to foreign investors to consider Dubai courts, and particularly its court of Cassation, as dubious when it comes to enforcement.

It was also found that Islamic law per se is not an obstacle in the enforcement of foreign arbitral awards and very few constraints were found from the perspective of public policy and arbitrability in particular. In fact, the courts of Bahrain and the UAE have applied a rather liberal interpretation of Islamic law in order to accommodate arbitral practices that have been sustained in other jurisdictions and under the lex mercatoria with a view to assisting the commercial vision of the two nations. Hence, it was found that Islamic law is an enabling vehicle in the enforcement of foreign arbitral awards in the UAE and Bahrain, rather than an obstacle.
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ABOUT THE AUTHOR

Dr. Mohamed Saud Alnasair, Alenaze was born on 29th December, 1981 at Riffa in Bahrain. He did the 2-year full time Diploma Course in Logistics of Supply at the Bahrain Royal Institute and passed the same in the year 2000. In the year 2006 he did his LLB in Law at the University of Bahrain and passed the University Examination with distinction. In the year 2008 he did the MBA (Merit) Course in Islamic Finance and then in the year 2009 he did the LLM International Trade and Economic Law (Merit) from the Brunel University- London (UK) and as part of the Course he submitted his Dissertation on International Commercial Law and Arbitration. Then in the year 2012 he did his Ph.D. from the Brunel University, London/UK, selecting the area of study as 'International Arbitration and Commercial Law'.

Dr. Saud received Numerous Awards/Fellowships/Grants for the meritorious performance of studies in various courses of study, a brief description of which may be given as the following: He was a recipient of Distinction Certificate from the President of the University of Bahrain during the years 2002-2003/2003-2004/2004-2005. He received the Distinction Certificate from the Dean of Law College, University of Bahrain, during the year 2005-2006. He also received the Distinction Certificate of the Prime Minister of Bahrain, on the Education Day, of 2007. He was awarded Participation Certificate by the Bahrain Chamber for Commercial Dispute Resolution (BCDR) in the year 2012 and was also awarded Participation Certificate by the Bahrain Chamber for Commercial Dispute Resolution (BCDR, Abu-Dhabi, in the year 2013. He was also awarded Participation Certificate in the year 2012 and 2013 in the Vis Moot, at Vienna-Austria.

Dr. Saud has served as Legal Advisor/Attorney-in-Law. In the year 2004 he worked as Legal Trainee in regard to Legal Affairs of the Ministry of Commerce in Bahrain. During the years 2005-2007 he worked in the Military Court of Bahrain, attending to the Investigatory matters.

The academic activities of Dr. Saud comprise the duty of Teaching at the University of Bahrain since 2007 in the Department of Private Law, Commercial and Business Law of the University of Bahrain. His teaching duties have a vast compass of teaching the students pursuing courses like the B.S. modules (from 2007 till now), International Commercial & Investment Arbitration, International Commercial and Business Law International Trade Law, International Finance Law, Insurance and Takaful, Commercial Papers, Financial Institutions, Company Law, and Environmental Law. Before resuming the duties at the University of Bahrain Dr. Saud assisted the researchers of the Brunel University of London, UK, as a Helper and Volunteer.

Dr. Saud at present is Assistant Professor & Head, Department of Private Law in the College of Law of the University of Bahrain and a Research Supervisor for Ph.D. Students.

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