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MENA Arbitration Survey 2024



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Introduction

We are proud to present the first report of the Middle East and North Africa (MENA) Arbitration Survey, a comprehensive study aimed at capturing key trends, preferences, and challenges in arbitration practices across the Middle East and North Africa. This periodic report represents a significant step in providing consistent, data-driven insights into the evolving arbitration landscape in the region.

The survey comes at a pivotal time, as the MENA region experiences rapid growth and transformation in its arbitration framework, marked by legislative reforms, modernisation of rules, and the emergence of prominent arbitration centres. By gathering input from a diverse group of respondents, including arbitrators, legal practitioners, in-house counsel, and academics, this survey ensures a representative and holistic understanding of the arbitration ecosystem in the region. The survey also addresses key topics, including the choice of arbitral institutions, methods of dispute resolution, and the challenges encountered in arbitration proceedings. By gathering input from a diverse group of respondents it ensures a broad and representative understanding of the state of arbitration in the MENA region.

We are very grateful to all those who participated in the survey, sharing their experiences and insights. Your contributions have been invaluable in creating this report, which we hope will serve as a resource for policymakers, practitioners, and institutions working to strengthen arbitration in the MENA region. This report not only highlights the progress made but also sheds light on areas that require continued focus to enhance the region's standing as a global hub for arbitration.

Yasmin Sebah is an independent Arbitrator, Mediator and a Senior Law Lecturer at Middlesex University Dubai where she teaches and coordinates the International Commercial Arbitration Postgraduate Module in addition to teaching various Commercial Law related Undergraduate Modules. Yasmin is also an International Trade and Investment Law Advisor where she specialises in cross-border commercial disputes, international arbitration, and trade policy negotiation in the Middle East and Africa. She is often engaged as an international consultant for various UN organisations including UN women, UNCTAD and the Economic Commission for Africa where she advises on multilateral and regional investment policies, implementation and incorporating green provisions and various investment and development related issues. In her capacity as legal consultant, Yasmin has advised on international trade and investment disputes and represented numerous States in international arbitration under the auspices of the International Centre for Settlement of Investment Dispute (ICSID-World Bank Group) and the Permanent Court of Arbitration (PCA) in the Hague. She is regularly called upon to facilitate executive legal programmes, training and capacity building targeting public and private sector participants in the Middle East and Africa.



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Construction clients turn to Emerson Holmes thanks to his extensive experience in construction and engineering disputes in the infrastructure and oil and gas sectors. Emerson represents clients in a range of disputes throughout Asia, Australia, Europe, the Middle East, and Africa and under all of the major arbitral rules, as well as in dispute boards, adjudications, expert determinations, and early neutral evaluations.



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Ashleigh is an Associate (Australian Qualified) in the International Arbitration, Construction & Engineering Disputes team in London. As an Associate, Ashleigh represents clients in complex, high value disputes across the energy, mining, engineering and construction industry sectors.



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Yasmin specialises in cross-border commercial disputes, international arbitration, and trade policy negotiation. She is a qualified mediator and is often invited as an expert to deliver conflict resolution training and advise on regional policy frameworks in peacebuilding and processes. Yasmin holds an LLB and Masters in International and Comparative Dispute Resolution. She completed her Legal Practice Course at the College of Law (London, UK) and is a Senior Fellow of the Higher Education Academy (UK).

Executive Summary

The MENA Arbitration Survey offers a timely and insightful analysis of arbitration practices across the Middle East and North Africa, capturing the perspectives of arbitrators, legal practitioners, in-house counsel, and academics. The survey's primary objective is to provide consistent, data-driven insights into trends shaping arbitration in the region, offering stakeholders a clear understanding of both progress and challenges within the evolving arbitration landscape. This survey comes at a pivotal moment, as the MENA region undergoes significant developments in arbitration laws and institutional frameworks. Legislative reforms, the

modernisation of arbitration rules, and the restructuring of key institutions underscore the importance of capturing up-to-date data to assess their impact on stakeholders and the broader dispute resolution ecosystem.

Hogan Lovells and Middlesex University Dubai have collaborated on a survey gathering insights into the current landscape of arbitration practices within the MENA region. The survey has been focused on commercial arbitration practices, with a specific interest in construction and energy related disputes. We have set out our key findings in the summary below.



Key Findings

Preferred Methods of Dispute Resolution:

- 61% of respondents favour institutional arbitration seated within the MENA region, reflecting trust in regional centres like DIAC and CRCICA.¹
- 78% prefer institutional arbitration seated outside the MENA region, with London, Paris, and Singapore being the top choices.²
- Party-party negotiation emerged as a significant alternative, with 42% of respondents selecting it over traditional litigation or arbitration.

Popular Arbitration Seats:

- Within the MENA region, the DIFC is the most preferred seat, followed by Abu Dhabi, Doha, and Riyadh.
- Outside the region, London leads by a significant margin, demonstrating its continued global appeal for arbitration.

Key Factors Influencing Seat Selection:

Respondents highlighted the importance of ease of enforcement, neutrality and impartiality of courts, and general court support for arbitration when selecting arbitral seats for disputes involving the MENA region.

Preferred Arbitral Institutions:

The LCIA, ICC, and DIAC are the most frequently chosen institutions, valued for the quality, expertise, and experience of their arbitrators.

Challenges in Arbitration:

- Institutional instability, such as changes at the DIFC arbitration centre, has caused delays and eroded client confidence in some cases.
- Costs and delays continue to exceed client expectations, and concerns over arbitrator bias and procedural unfamiliarity persist, particularly in newer institutions.
- The enforcement of arbitral awards remains a critical area of concern.

Sustainability in Arbitration:

- 54% of respondents consider sustainability when selecting arbitral institutions or members, emphasising green initiatives such as e-bundles, e-hearings, and reduced travel.
- Over 70% of respondents acknowledged the positive impact of technology on the efficiency and effectiveness of arbitration proceedings.

Industry-Specific Insights:

- Construction:
 - 87% of respondents in the construction sector anticipate increased work in the MENA region, driven by rising investments in infrastructure.
 - 82% expect disputes within the next three years, with delays and cost overruns identified as primary causes.
- Energy:
 - 58% foresee growth in both traditional and renewable energy projects, but concerns about economic instability and price fluctuations indicate a high likelihood of disputes, particularly around sourcing and project lifecycle issues.

Future Outlook:

- Saudi Arabia is identified as a key jurisdiction for future revenue growth, particularly in the construction and energy sectors, fuelled by large-scale investments and population growth.
- Only 33% of respondents view AI as “somewhat important” to their organisation’s growth in the next five years, signalling cautious optimism regarding AI’s role in arbitration.

This survey reflects the MENA region’s growing maturity as an arbitration hub, with regional institutions making strides in expertise and efficiency. At the same time, it highlights areas for improvement, such as addressing cost concerns, strengthening enforcement mechanisms, and enhancing procedural consistency. By providing actionable insights and data, the report aims to serve as a roadmap for policymakers, institutions, and practitioners to further advance arbitration practices and foster confidence in the region’s dispute resolution framework.



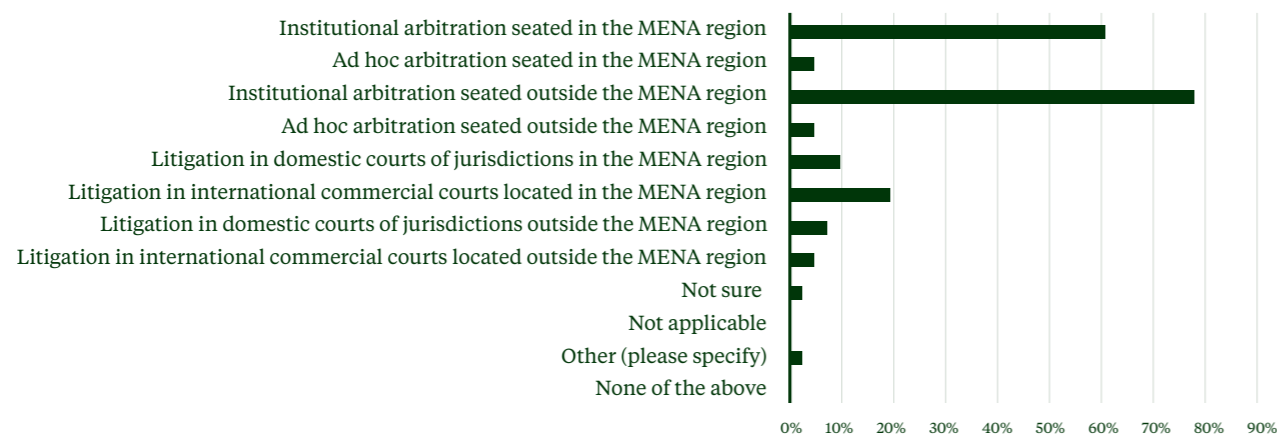
¹ This statistic is based on a multi-select option and therefore the results are not out of 100%.

² As above.

Research Findings, Commentary and Insight

Arbitral Seats and Institutions

For final and binding dispute resolution, 78% of respondents prefer institutional arbitration seated outside the MENA region, while 61% favour institutional arbitration seated within the MENA region.³



For disputes relating to the MENA region, the DIFC is the overwhelmingly preferred seat, though Abu Dhabi, Doha, and Riyadh also receive notable support. Outside the MENA region, London stands as the leading choice by a considerable margin, followed by preferences for Paris and Singapore.

When selecting an arbitral seat for disputes involving the MENA region, respondents highlighted the following factors as important: the ease of enforcing arbitration agreements and arbitral awards in the courts of the chosen seat, the neutrality and impartiality of those courts, and the

extent to which the courts are perceived as generally supportive of arbitration.

When resolving disputes in the MENA region, respondents indicated a strong preference for the following arbitral institutions: (1) LCIA, (2) ICC, and (3) DIAC.⁴ According to respondents, this preference is primarily driven by factors such as the quality and expertise of arbitrators available through these institutions, along with the extensive experience these arbitrators bring in handling cases administered by these bodies.

³ This statistic is based on a multi-select option and therefore the results are not out of 100%.

⁴ This statistic is based on a multi-select option, requiring respondents to select their preferred three organisations.

Preference for Arbitral Seats: Institutional Arbitration Inside vs. Outside MENA

The preference for institutional arbitration outside the MENA region (78%) slightly outweighs the preference for institutional arbitration within the region (61%). This finding underscores the dual dynamics shaping arbitration in the MENA region. While local arbitration centres, such as DIAC and CRCICA, are increasingly gaining traction for their regional expertise and proximity, major international hubs like London, Paris, and Singapore continue to attract parties for their well-established reputations and global enforceability.

Insight

The near parity between preferences for arbitration inside and outside the region indicates progress in MENA's arbitration infrastructure but also points to areas for improvement, particularly in transparency, institutional reliability, and enforcement mechanisms, to compete with global hubs.

Popular Seats: DIFC Leads Locally, London Dominates Internationally

For MENA-related disputes, the DIFC is the overwhelmingly preferred seat within the region, with Abu Dhabi, Doha, and Riyadh also receiving support. This preference for the DIFC reflects its international framework, arbitration-friendly judicial environment, and established reputation as a neutral and reliable jurisdiction. Outside the region, London dominates as the top seat, followed by Paris and Singapore, reflecting their historic significance and track record in international arbitration.

Insight

The DIFC's dominance locally highlights the importance of strong, arbitration-supportive courts, which other regional seats like Abu Dhabi and Riyadh could emulate to gain further traction. Internationally, London's lead underscores its deep-rooted trustworthiness for neutrality and expertise, making it a benchmark for MENA institutions aspiring to global competitiveness.

Key Factors for Seat Selection: Enforcement and Judicial Neutrality

Respondents identified ease of enforcing arbitration agreements and awards, judicial neutrality and impartiality, and court support for arbitration as the most critical factors when choosing arbitral seats for MENA disputes. These criteria emphasise the practical considerations that drive seat selection, including the ability to rely on local courts to uphold arbitration processes and enforce awards without undue interference.

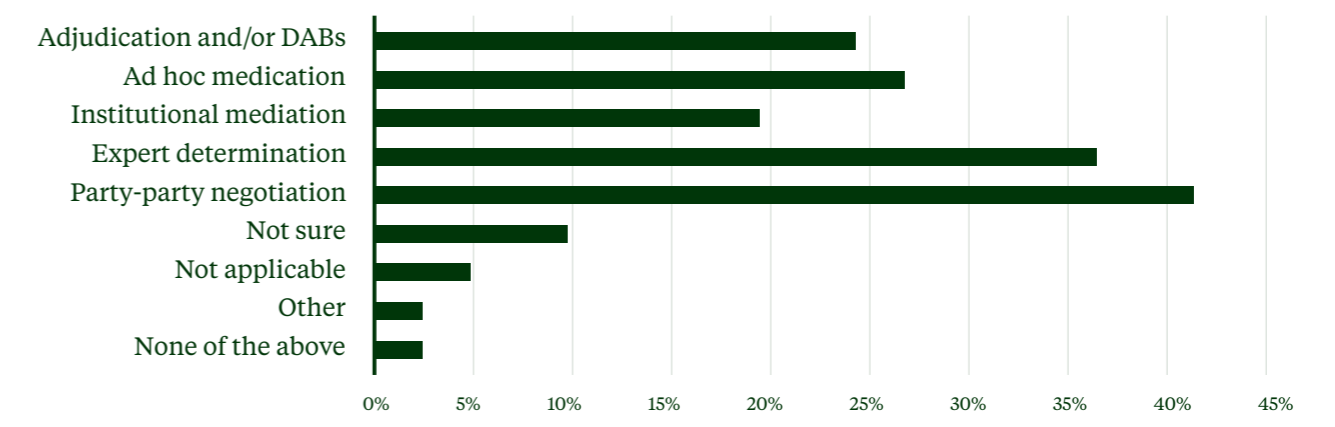
Insight
MENA jurisdictions seeking to attract more arbitration work should prioritise reforms that enhance enforcement frameworks and judicial training to ensure impartiality and alignment with international arbitration standards.



Alternative Dispute Resolution Mechanism: Preferred Informal Mechanisms?

Although respondents indicated a preference for final and binding dispute resolution mechanisms, the respondents also indicated a preference for more informal methods to resolve disputes. 42% of respondents indicated a preference for party-party negotiation, followed by expert determination (37%) and ad-hoc mediation (27%).

What is your preferred method of ADR (outside of arbitration)?



Insight
This highlights a growing recognition of more informal, cost-effective, and faster methods of dispute resolution alongside traditional litigation and arbitration.

Additional Challenges in Arbitration

Although the survey demonstrated that respondents prefer arbitration to resolve disputes arising in the region, there were a few key findings as to challenges for parties to an arbitration.

Institutional instability, such as changes at the DIFC arbitration centre, has caused delays and eroded client confidence in some cases. Notwithstanding comments to this effect, the DIFC is a preferred seat for disputes in the region and we intend to track how the DIFC continues to evolve in the coming years. The respondents also identified that, particularly with newer institutions, there are concerns with arbitrator bias and, as discussed above, the availability of arbitrators at particular institutions does impact their preference.

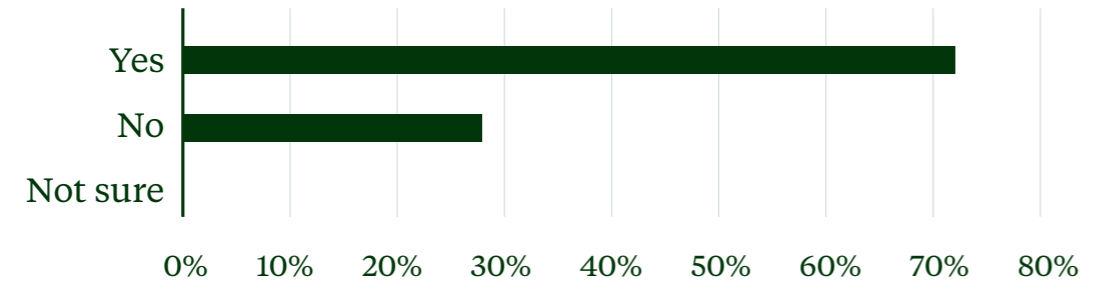
The respondents identified that costs and delays continue to exceed the parties' expectations, particularly given the length of arbitrations and the time it takes to get an award.

Sustainability

In respect of green/sustainable arbitrations, 54% of participants considered sustainability when considering arbitral institutions and arbitral members.

The key "green" initiatives are e-bundles, e-hearings, and reducing travel for hearings. The commentary by the respondents also indicated that these measures can be cost effective for managing arbitrations. Over 70% of participants also considered that the use of technology has impacted the efficiency and effectiveness of these proceedings.

Has technology impacted the effectiveness and efficiency of proceedings?





Key Sectors

The MENA Arbitration Survey highlights significant trends and challenges within the construction and energy sectors, two industries crucial to the region's economic development. These findings provide valuable insights into the anticipated growth, potential disputes, and key drivers shaping these sectors.

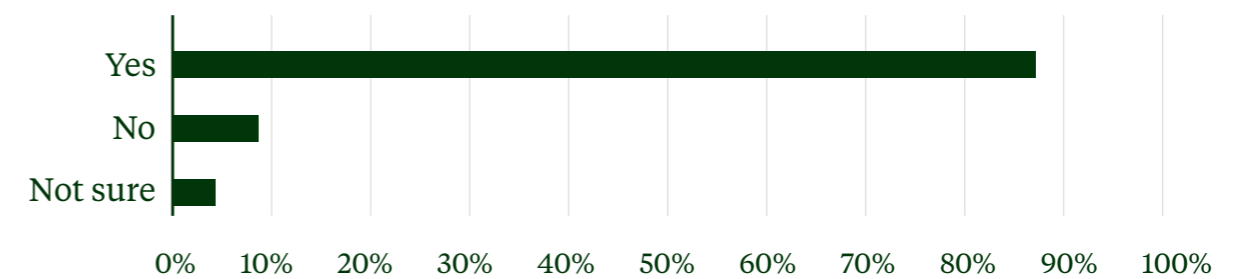
Construction Sector

Among those working in the construction industry, a significant majority of 87% of respondents anticipate growth in their work within the MENA region, with the primary driver being a rise in commercial and government investments, particularly in infrastructure projects.

Construction Sector Growth

The construction industry in the MENA region is poised for substantial expansion, with 87% of respondents expecting growth in their work. This optimism is largely fuelled by increased commercial and government investments, particularly in large-scale infrastructure projects. These investments reflect ongoing national development agendas, including urbanisation, transportation networks, and the rise of megaprojects such as smart cities and renewable energy hubs.

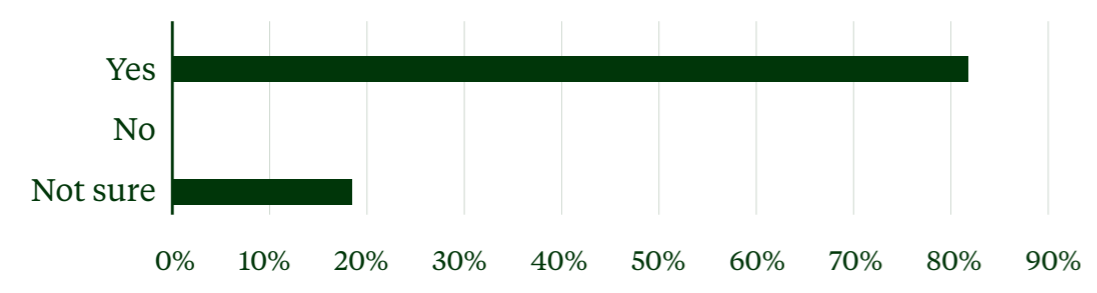
Do you anticipate a growth in construction work in the MENA region?



Anticipated Disputes in Construction Projects

Despite the positive outlook, 82% of respondents expect their construction projects to face disputes within the next three years. The primary drivers of these disputes are delays (90%) alongside claims for disruption (86%), changes in scope (86%) and additional cost (86%). These challenges are particularly common in large-scale, high-value projects where timelines and budgets are tightly constrained.

Do you anticipate that your projects will face disputes in the next three years?



Insight

The prevalence of expected disputes highlights the need for robust dispute resolution mechanisms, including arbitration, to manage and resolve conflicts in a timely and cost-effective manner. The anticipated growth in construction underscores the importance of arbitration as a mechanism to address potential disputes efficiently, given the high stakes and complexity of these projects.

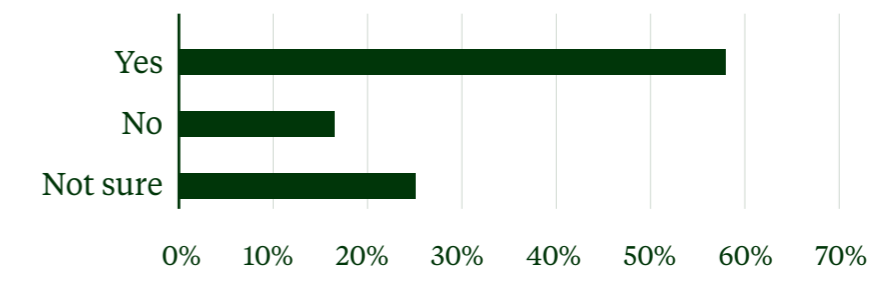
Energy Sectors

Among respondents in the energy industry, 58% considered that their work in the MENA region will increase and this is across traditional energy projects and renewable energy. These respondents identified that the fluctuation in prices and economic instability is likely going to impact their business and a significant portion of the respondents expect these projects to result in disputes (across a variety of issues, but particularly sourcing disputes and life of project disputes).

Growth and Challenges in the Energy Sector

In the energy sector, 58% of respondents foresee increased work within the MENA region, spanning both traditional energy projects and renewable energy initiatives. This anticipated growth aligns with global energy transition trends and the region's efforts to diversify its energy portfolio. However, respondents noted that economic instability and price fluctuations pose significant risks, with disputes expected to arise from sourcing issues and challenges throughout project lifecycles.

Do you anticipate a growth in energy work in the MENA region?



Insight

As energy projects become more complex and diversified, arbitration will play a key role in resolving disputes, particularly those stemming from the integration of renewable energy projects and fluctuating market conditions.



Overall Commentary

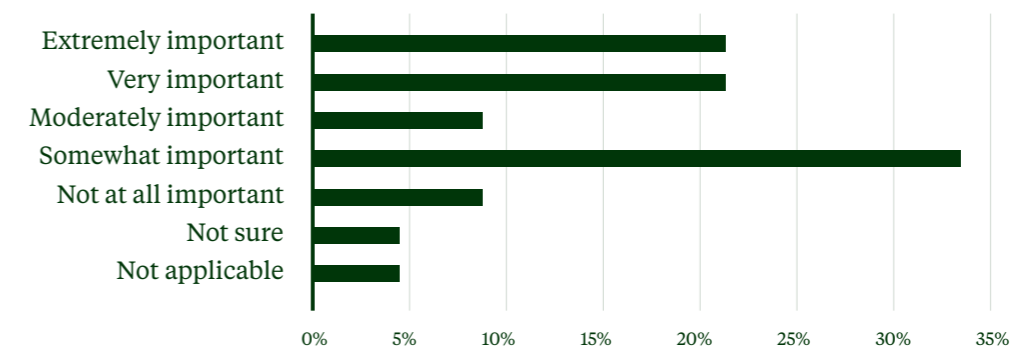
The survey findings underscore the dual opportunities and challenges in the construction and energy sectors. While growth is a dominant theme, the high likelihood of disputes necessitates the use of effective arbitration mechanisms tailored to the unique characteristics of these industries. Regional arbitration centres, with their increasing expertise and accessibility, are well-positioned to address these needs, ensuring the continued development and stability of these critical sectors in the MENA region.

Future Outlook

When asked in which jurisdiction respondents expect to see revenue growth, the survey results overwhelmingly highlight the Kingdom of Saudi Arabia, within the construction and energy sectors. Respondents attribute this expected growth mainly to Saudi Arabia’s increased investment initiatives, natural resources, and population growth.

Survey findings indicate that when asked about the role of artificial intelligence in future growth, only 33% of respondents believe that their organisation’s success in implementing AI within operations or practice will be “somewhat important” to its growth over the next five years.

How important is artificial intelligence for your organisations future growth?



Insight

The survey provides valuable insights into the anticipated growth and technological evolution in the MENA region, with a particular focus on jurisdictional revenue growth in shaping the future of arbitration and industry practices.

Saudi Arabia's focus on large-scale projects will likely lead to increased arbitration activity as a natural corollary of its complex and high-value investments. Arbitration practitioners and institutions should position themselves to address the potential disputes that may arise in this dynamic growth environment.

Artificial Intelligence and Future Growth

When asked about the role of artificial intelligence (AI) in future growth, only 33% of respondents believed that their organisation's success in implementing AI would be "somewhat important" to its growth over the next five years. This cautious perspective suggests that while AI is recognised as a potential tool for improving operational efficiency, its adoption in the arbitration and broader professional landscape is still in its early stages in the MENA region. Respondents may also perceive limitations in existing AI capabilities or feel that its practical application in arbitration and related industries remains uncertain.

Insight

The relatively low expectation of AI's importance highlights a gap in its integration within regional practices. Institutions and organisations that invest early in AI technology, such as case management systems, automated document review, and analytics for case strategy, could gain a competitive edge. Education and awareness initiatives may also be necessary to bridge the gap between AI's potential and its perceived relevance.

Overall Commentary

The survey reveals a clear trajectory of economic growth in Saudi Arabia, particularly in construction and energy, underpinned by strategic investments and resource utilisation. This presents an opportunity for arbitration institutions and professionals to proactively prepare for the accompanying rise in disputes. Simultaneously, the subdued outlook on AI adoption indicates room for improvement in leveraging technology to enhance efficiency and innovation in dispute resolution and organisational practices. By aligning with these trends, stakeholders can better position themselves for the evolving landscape of arbitration in the MENA region.

Conclusion

The survey findings highlight the MENA region's progress in arbitration while revealing opportunities for growth. Institutions like DIFC and DIAC are gaining prominence, but competition from established global hubs remains strong. By addressing enforcement challenges, fostering judicial neutrality, and embracing green and technological innovations, MENA arbitration can solidify its role as a globally competitive and regionally trusted dispute resolution framework.





Appendix

Methodology

The overall duration for this research was between November 2023 to October 2024. This research was conducted by Yasmin Sebah, Senior Law Lecturer at Middlesex University Dubai, Emerson Holmes, Partner at Hogan Lovells and Ashleigh Gray, Associate at Hogan Lovells.

The MENA Arbitration Survey utilised an online survey as its sole data collection tool, ensuring efficient and broad-reaching engagement with arbitration professionals across the Middle East and North Africa. The methodology was designed to provide an accurate and comprehensive understanding of current practices, challenges, and trends in arbitration within the region.

Below are the key components of the methodology.

Data Collection

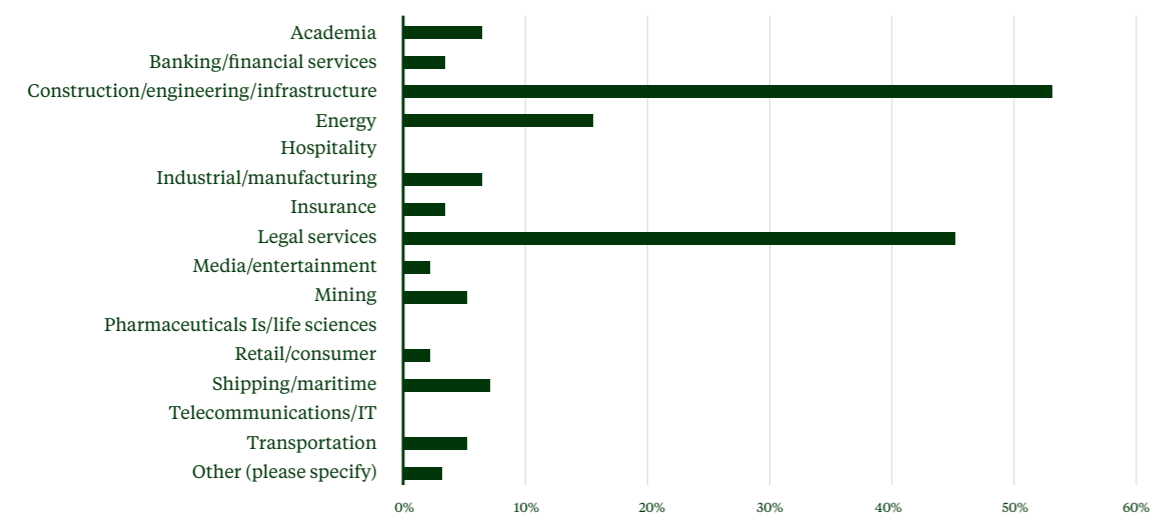
The survey was conducted entirely online, enabling participation from a diverse range of arbitration professionals across the MENA region. This format allowed for ease of access and ensured a geographically inclusive sample, reflecting the diverse legal, cultural, and procedural contexts within the region. The survey was distributed through targeted professional networks, industry associations, and academic platforms to engage a wide range of stakeholders involved in arbitration.

The survey was carefully designed to gather quantitative data on key aspects of arbitration practices, including preferences for institutions and procedural rules, challenges faced by practitioners, and attitudes toward enforcement and judicial support. Additionally, the survey sought to identify emerging trends such as the adoption of technology and the alignment of regional practices with international arbitration standards. A total of 95 respondents completed the survey, providing valuable insights into the arbitration landscape. Responses were thoroughly reviewed to ensure data integrity, with incomplete or inconsistent submissions excluded from the final dataset.

Respondent Profile

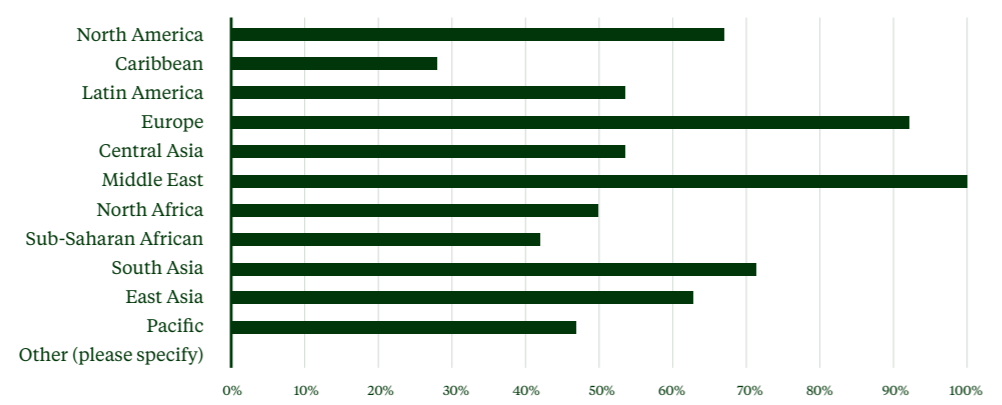
The 95 respondents represented a diverse cross-section of stakeholders in arbitration. Participants included legal counsel, corporate representatives, and academics, each offering unique perspectives on the arbitration process.

Which sectors or industries do you currently work in?



The respondents spanned multiple jurisdictions across the MENA region and internationally, ensuring that the data captured both regional and global trends and jurisdiction-specific nuances.

In which region(s) does your organisation currently operate or practise?



Sectoral Coverage

Key industries were represented in the survey, with a specific focus on the construction and energy sectors. These two industries were prioritised due to their significant role in the arbitration landscape of the MENA region and their unique characteristics that frequently lead to complex disputes.

The construction sector was a focal point because it is a cornerstone of economic development in the MENA region, driven by large-scale infrastructure projects and government-backed initiatives. Arbitration has become the preferred dispute resolution method for the construction industry because of its ability to handle technical complexity, confidentiality requirements, and the international nature of many projects.

Similarly, the energy sector was highlighted due to its strategic importance in MENA, as the region is a global hub for oil, gas, and

increasingly, renewable energy projects. Energy-related disputes often involve long-term contracts, joint ventures, and operational agreements, where the stakes are high and parties demand a neutral and specialised forum for resolution. Arbitration's enforceability across borders and its ability to accommodate industry-specific expertise has made it particularly well-suited for the energy sector.

Focusing on these two sectors allowed the survey to delve deeply into the procedural preferences, institutional choices, and challenges unique to these industries. It also provided a platform to explore emerging trends. By prioritising construction and energy, the survey captured insights into two of the most dynamic and arbitration-reliant sectors in MENA, offering valuable lessons for practitioners, policymakers, and academics seeking to understand and advance arbitration practices in the region.

Scope of the Survey

The questionnaire was designed to address critical aspects of arbitration in the MENA region and to capture a wide range of information, including:

- Preferences in arbitration institutions and procedural rules.
- Challenges faced in arbitration, such as costs, enforcement, and judicial support.
- Emerging trends, including the adoption of technology and international standards.
- Insights on regional-specific factors influencing arbitration outcomes.

Analysis Framework

The MENA Arbitration Survey employed a structured analysis framework to ensure the data collected provided meaningful and actionable insights into arbitration practices in the region. Quantitative analysis was conducted to identify patterns and trends in key areas such as institutional preferences, procedural rules, and enforcement challenges. The analysis included the interpretation of data to uncover overarching themes and common practices.

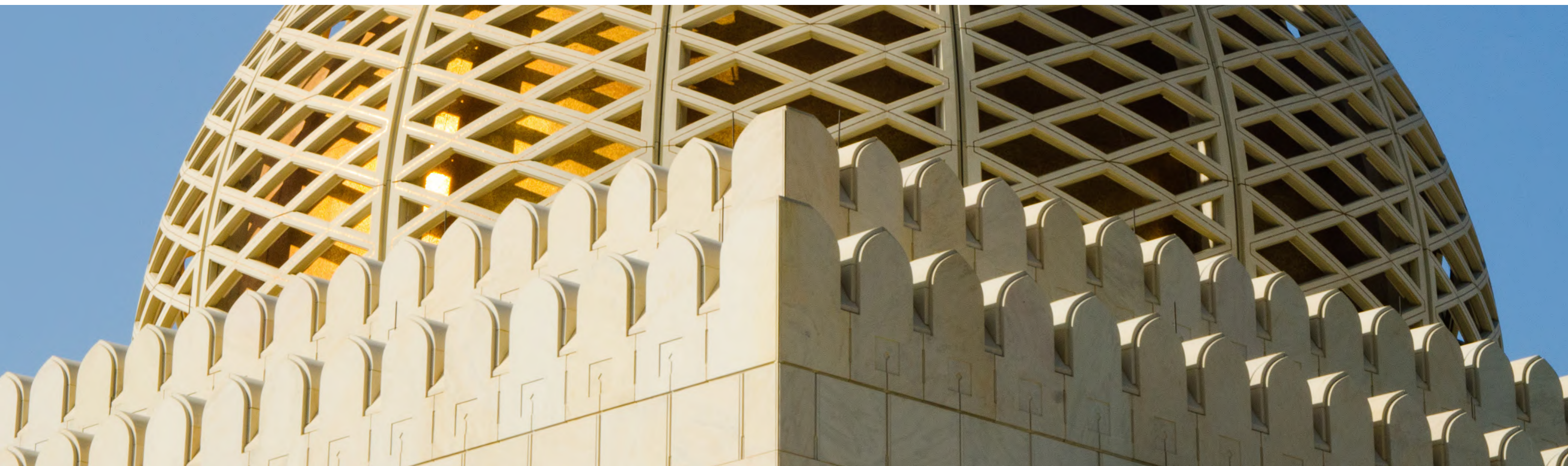
To provide deeper insights, the data was segmented geographically and sectorally. Geographic segmentation highlighted jurisdiction-specific nuances, such as variations in practices and judicial attitudes toward arbitration. Sectoral segmentation focused on key industries, construction and energy, revealing sector-specific trends and challenges. This approach provided a wholistic view of the arbitration landscape, enabling a nuanced understanding of both regional commonalities and industry-specific practices. The findings are presented in a clear and actionable format to benefit practitioners, policymakers, and academics.

Middlesex University Dubai



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