

# Enforcing Saudi arbitral awards

Recent reforms look to bring kingdom's arbitration system in line with global standards

**S**audi Arabia has been a party to the Convention on the Recognition and Enforcement of Arbitral Awards of 1958 (the New York Convention) since 1994. However, the recognition and enforcement of foreign arbitral awards in the kingdom has been uncertain.

This was the result of the Saudi courts' intense judicial review of domestic and foreign awards to ensure compliance with sharia or Islamic law. Parties contracting with Saudi counterparties that have no identifiable assets outside the kingdom have had to understand, and accept, the inherent risks of such business.

“

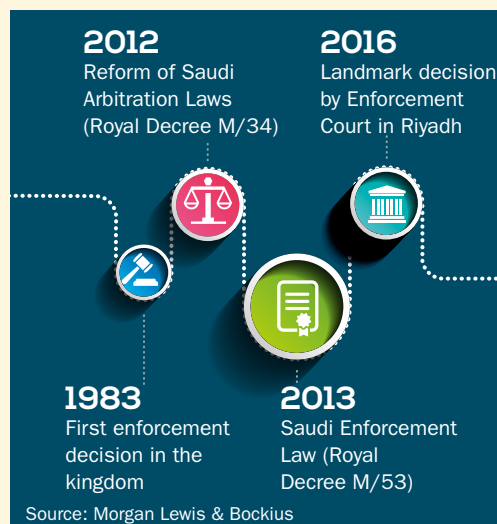
**The Arbitration Laws provide greater clarity on enforceability**

”

Recent reforms to Saudi Arabia's arbitration system have sought to bring it in line with international standards and encourage parties to resort to arbitration for dispute resolution. The enactment of the Arbitration Laws in 2012 repealed the 1983 Saudi Arbitration Law. These Arbitration Laws provide greater clarity on the enforceability of awards and prohibit the re-examination of the merits of an arbitral award, although it does not change the sharia-compliance requirement.

The Arbitration Laws are complemented by the Enforcement Law, which came into force in 2013. This created specialised enforcement courts, in place of the Board of Grievances, to enforce judgements and arbitral awards in a more streamlined manner. In a landmark decision in 2016, the Enforcement Court in Riyadh confirmed that an \$18.5m International Criminal Court

## SAUDI ARBITRATION HIGHLIGHTS



award rendered in London would be enforced in Saudi Arabia against a Saudi-domiciled debtor.

In examining the enforceability of the award, the judge had to satisfy himself on several issues, namely: the Saudi courts did not have jurisdiction to hear the underlying dispute, as a result of the arbitration clause in the agreement; the country in which the award was rendered had a reciprocal agreement for enforcing awards rendered in Saudi Arabia; the award was handed down following a procedure that complied with due process and was in final form according to the law of the seat of arbitration; the award did not contain anything that conflicted with sharia or Saudi public policy; and finally that the award was not inconsistent with a judgement or order rendered by a competent authority in the kingdom.

This case is a promising example of what may be more pro-arbitration decisions emanating from Saudi Arabia. However, with little track record since the promulgation of the Arbitration Laws, it is not yet clear how consistent and expedient the enforcement of foreign arbitral awards will be. <sup>M</sup>

**TAREK EL-ASSRA** is a banking and finance partner with Morgan Lewis & Bockius, and has been based in the Middle East for more than a decade