

The Qatar Financial Court Procedural Rules

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Introduction

The Civil and Commercial Court (the Court was established by virtue of the Qatar Financial Center law no.7 of 2005 as amended by law no.2 of 2009(QFC Law). Although the Court has already heard a few cases, the procedural rules were issued only early this year. The Minister of Economy and Finance issued resolution No.1 of 2011 setting forth the regulations and procedural rules for the Court including the Appellate circuit (the Rules).

This article highlights the most important provisions of the Rules.

The language of the Court

The Rules describe the Court as a Qatari Court but at the same time, it is international in nature. Accordingly, although proceedings before the Court will usually be conducted in English, the Court shall pay due respect to the fact that Arabic is the official language of the State of Qatar. Therefore, the parties before the Court shall be entitled to conduct proceedings in Arabic if they wish to do so.

Alternative dispute resolution; dispute resolution center. The Court will encourage the parties, whenever it is appropriate to do so, to resolve their dispute by resorting to arbitration or mediation or any other method of alternative dispute resolution.

The jurisdiction of the Court

The Court has jurisdiction as provided by article 8.3 of the QFC Law, in relation to:

1. Civil and commercial disputes arising from transactions, contracts, arrangements or incidences taking place in or from the QFC between the entities established in the QFC.
2. Civil and commercial disputes arising between the QFC institutions and the others entities established in the QFC.
3. Civil and commercial disputes arising between entities established in the QFC and contractors and employees, unless the parties agree otherwise.
4. Civil and commercial disputes arising from transactions, contracts or arrangements taking place between entities established within the QFC and residents of the State, or entities established in the State but outside the QFC, unless the parties agree otherwise.

What is the applicable law?

The Court shall apply the QFC Law and QFC regulations. The parties however may agree the law that shall apply to their dispute, in which case the court will ordinarily determine the dispute in accordance with that agreement. However, the Court has the right to refuse to apply the law agreed by the parties, if it has good reasons to consider that it is inappropriate to do so. In addition, the Court will not apply any law which is inconsistent with the public order or public policy in Qatar.

How to commence proceedings in the court

Any proceedings shall be commenced **within 6 years** of the date on which the cause of action accrued.

Proceedings are commenced by the issue of a claim form by the Registry of the Court.

A claim form must include the names of the parties, addresses, contacts numbers, and the nature of the dispute briefly and the supporting documents. A claim form is valid for service for **4 months from the date of issue**.

The method of service of claim and other documents

The claim form and any other document shall be served by the party concerned and not by the Court. Permission of the Court is not required to serve a claim form outside Qatar. The claimant shall ensure that the claim form is served in accordance with the rules for service applicable to the country concerned, including any applicable service convention.

The service of documents may be by personal service, recorded mail, fax or any method agreed between the parties or directed by the Court.

How to respond to a claim

A defendant shall serve and file his defence to a claim form, or shall indicate that he admits a claim or any part of it, **within 28 days of date of service** or deemed service of the claim form.

The judgments, decisions and orders

Any judgments or decisions or order of the Court is effective from the moment of its pronouncement.

What are the possible costs in a dispute before the Court?

The Court shall make such order as it thinks fit in relation to the parties' costs of the proceedings. In general, the unsuccessful party pays the costs of the successful party that may include the costs of an expert or assessor or any other payment in relation to the case.

What are the procedures to enforce judgments and orders?

Any judgment or order of the Court is a judgment or order of Qatari court and capable of enforcement and execution by the courts of Qatar as would be a judgment or order of any other Qatari court.

All relevant competent agencies and authorities of the State shall give effect to a judgment of the Court. The Court shall have the power to enforce its own judgments, decisions and orders and to deal with contravention of its judgments by levying a fine, making an order or referring the matter to another agency or authority of the State.

The enforcement judge is primarily responsible for the enforcement of the Court's judgments, decisions and orders.

The judgment shall be translated into Arabic for the purposes of enforcement only.

How to appeal the Court's judgment and decisions

A first instance judgment or decision of the Court will usually be final. However, if there are substantial grounds for considering that a judgment or decision is erroneous and there is a significant risk that it will result in serious injustice, the appeal should be permitted by a Court consisting of three judges. The period of appeal is 60 days from the date of the judgment. The appeal circuit is composed of three judges, including the president, unless he is incapacitated or his sitting would not be in the interests of justice.

Conclusion

The Rules are considerably different from the Rules applicable before the Qatari Courts. Given the novelty

of the Rules and their interaction with the other laws in Qatar, their application might create some confusion. The QFC Law provides that in case the Rules are silent, the Court shall apply the Qatari Procedures Law No.13 of 1990. If the lawyers who have the right of audience are familiar with the Rules, they may not be necessarily familiar with the Qatari law and vice versa. In any event, we need to wait and see how the Court will apply and interpret the Rules and how the authorities in Qatar will deal and co-operate with the Rules.