

GUIDE TO ARBITRATION PLACES (GAP)

PAKISTAN

CHAPTER PREPARED BY

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JURISDICTION INDICATIVE TRAFFIC LIGHTS [‡]

1. Law	●
a. Framework	●
b. Adherence to international treaties	●
c. Limited court intervention	●
d. Arbitrator immunity from civil liability	●
2. Judiciary	●
3. Legal expertise	●
4. Rights of representation	●
5. Accessibility and safety	●
6. Ethics	●
Evolution of above compared to previous year	≡
7. Tech friendliness	●
8. Compatibility with the Delos Rules	●

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There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline any and all responsibility.

IN-HOUSE AND CORPORATE COUNSEL SUMMARY

In Pakistan, the Arbitration Act, 1940 (the “**Arbitration Act**”), a colonial era legislation, is the main law governing arbitration agreements, procedures, and domestic arbitral awards. Pakistan ratified the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (the “**New York Convention**”) by enacting the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (the “**2011 Act**”). The courts of Pakistan, in recent cases, have confirmed that the New York Convention’s pro-enforcement policy is the cornerstone of the laws of Pakistan in relation to recognition and enforcement of foreign awards. On the other hand, the law and practice of domestic arbitration in Pakistan remains in a state of flux; various judges, lawyers, and academics have strongly suggested updating the arbitration laws and procedures prevailing in the country. At present, there are no major arbitration centres/institutions in Pakistan. There is, however, an increased presence of dispute resolution institutions. Bodies such as the Chartered Institute of Arbitration (CIArb) (Pakistan Branch), the Centre for International Investment and Commercial Arbitration (CIICA), and Musaliha International Center for Arbitration and Dispute Resolution (MICADR) encourage the use of out-of-court dispute resolution mechanisms (both arbitration and mediation) and provide access to dispute resolution professionals.

Key places of arbitration in the jurisdiction?	Lahore, Karachi, and Islamabad.
Civil law / Common law environment (if mixed or other, specify)?	Common law jurisdiction.
Confidentiality of arbitrations?	Not expressly prescribed under the Arbitration Act; however, arbitral proceedings are generally accepted to be confidential in nature. Nevertheless, once the arbitral award is filed in court for enforcement, the confidentiality of the award is <i>de facto</i> lost because court proceedings and judgments are open to the public in Pakistan.
Requirement to retain (local) counsel?	Not expressly provided.
Ability to present party employee witness testimony?	Not restricted.
Ability to hold meetings and/or hearings outside of the seat and/or remotely?	Permitted, but not expressly provided in the statute. However, courts generally adhere to the parties’ freedom of choice in relation to forum. The courts have also recognised and enforced arbitral awards where arbitration proceedings were held virtually (in the absence of a party’s objection).
Availability of interest as a remedy?	Section 29 of the Arbitration Act provides that where and insofar as an award is for the payment of the money, the court may order for the payment of interest in the decree. The rate of interest should be what court deems reasonable, to be paid on the principal sum as adjusted by the award from the date of the decree.
Ability to claim for reasonable costs incurred for the arbitration?	Permitted.

Restrictions regarding contingency fee arrangements and/or third-party funding?	Contingency fee arrangements are not permitted. Third party funding is not <i>per se</i> illegal and permitted where the funding arrangement is not against public policy or extortionate and does not lead to vexatious litigation.
Party to the New York Convention?	Yes.
Party to the ICSID Convention?	Yes.
Compatibility with the Delos Rules?	Yes.
Default time-limitation period for civil actions (including contractual)?	No default time-limitation period. Depending on the nature of claim, the time-limitation varies.
Other key points to note?	None.
World Bank, Enforcing Contracts: <i>Doing Business</i> score for 2020, if available?	108
World Justice Project, Rule of Law Index: <i>Civil Justice</i> score for 2024, if available?	0.39

ARBITRATION PRACTITIONER SUMMARY

Date of arbitration law?	The Arbitration Act was promulgated on 1 July 1940. The 2011 Act was promulgated on 19 July 2011 (and applies to foreign arbitral awards issued on or after 14 July 2005).
UNCITRAL Model Law? If so, any key changes thereto?	No.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	No, arbitration-related matters under the Arbitration Act are heard by the ordinary civil courts. Proceedings under the 2011 Act are heard by the High Courts and can be appealed to the Supreme Court of Pakistan (" Supreme Court "), provided that the Supreme Court grants the leave to appeal.
Availability of <i>ex parte</i> pre-arbitration interim measures?	Yes.
Courts' attitude towards the competence-competence principle?	The courts generally accept that the arbitral tribunal may decide on its own jurisdiction, but there is no specific legislation to this effect.
May an arbitral tribunal render a ruling on jurisdiction (or other issues) with reasons to follow in a subsequent award?	There is no legislation or judicial ruling available specific to this issue.
Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?	Yes. Under the Arbitration Act, the questions relating to the misconduct of the arbitral proceedings and the legality of the award apparent on the face of the award are also the grounds for the annulment of award in addition to the grounds under the New York Convention.
Do annulment proceedings typically suspend enforcement proceedings?	For domestic arbitral awards, a Civil Court typically decides any objections to the arbitral award before its enforcement, unless the time for challenging the arbitral award has expired. With regard to foreign arbitral awards, a High Court considering an application to enforce a foreign award can suspend enforcement proceedings if an application for the setting aside or suspension of the award has been made to the competent court in accordance with Article VI of New York Convention. The Pakistani court may also require the party seeking to suspend enforcement proceedings to give suitable security pursuant to the same Article.
Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?	The courts in Pakistan have not addressed this issue.
If an arbitral tribunal were to order a hearing to be conducted remotely (in whole or in part)	This matter has not yet come before the courts for adjudication. Considering that the courts in Pakistan have adopted a pro-arbitration policy, any such objection, if dealt with reasonably,

despite a party's objection, would such an order affect the recognition or enforceability of an ensuing award in the jurisdiction?	should not affect the recognition or enforceability of the ensuing award in Pakistan.
Key points to note in relation to arbitration with and enforcement of awards against public bodies at the jurisdiction?	The principles enshrined in the 2011 Act and Arbitration Act will apply.
Is the validity of blockchain-based evidence recognised?	This matter has not come before the courts in Pakistan yet.
Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?	This matter has not come before the courts in Pakistan yet.
Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?	Considering their pro-arbitration approach, Pakistani courts may consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement. However, no specific legislation or judicial decision is available to this effect.
Other key points to note?	Recent court judgments have emphasised the "pro-enforcement bias" of the New York Convention; however, the same cannot be said in respect of domestic awards.

JURISDICTION DETAILED ANALYSIS

1. The legal framework of the jurisdiction

1.1 Is the arbitration law based on the UNCITRAL Model Law? 1985 or 2006 version? If yes, what key modifications if any have been made to it?

The Arbitration Act is not based on the UNCITRAL Model Law. The Arbitration Act is a colonial era law and provides for conducting arbitration through the following three mechanisms:

- (a) Arbitration without court intervention (Chapter II, Sections 3-19);
- (b) Arbitration with intervention of the court where there is no suit pending (Chapter III, Section 20); and
- (c) Arbitration in suits pending before the court (Chapter IV, Sections 21-25).

The Arbitration Act is the general legislation that governs domestic arbitral proceedings, including, the interpretation of arbitration agreements, appointment and removal of arbitrators, powers of the courts in relation to arbitration proceedings, and setting aside and enforcement of arbitral awards. The Arbitration Act does not apply to foreign arbitral awards, as decided in *Taisei Corporation v A.M. Construction Company (Pvt.) Limited* 2024 SCMR 640.

The recognition and enforcement of foreign arbitral awards in Pakistan is governed by the 2011 Act.

The 2011 Act and the Arbitration Act apply different enforcement procedures. The Arbitration Act empowers the civil courts, which are the courts of general first instance jurisdiction, to recognise and enforce (domestic) arbitral awards. On the other hand, Section 3 of the 2011 Act provides exclusive jurisdiction to the High Courts (which are one tier below the Supreme Court, the court of ultimate jurisdiction) to adjudicate and settle matters arising from the 2011 Act. Further, Section 7 of the 2011 Act limits the grounds on which recognition and enforcement of a foreign award can be refused and states that *"the recognition and enforcement of a foreign arbitral award shall not be refused except in accordance with Article V of the Convention."*

The International Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 1966 (the **"ICSID Convention"**) has also been implemented in Pakistan through the Arbitration (International Investment Disputes) Act, 2011 (the **"ICSID Convention Act"**).

1.2 When was the arbitration law last revised?

The arbitration law in Pakistan was last revisited in 2011, when the New York Convention was incorporated into the laws of Pakistan through the enactment the 2011 Act, which applied to the enforcement and recognition of foreign arbitral awards.

Before that, the Arbitration Act was amended in 1981 to require arbitrators or umpires to provide adequate reasoning in their awards to enable the competent court to consider any questions of law arising out of the award (Section 26-A of the Arbitration Act).

2. The arbitration agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

Pakistani courts' approach to determination of the law governing the arbitration agreement is informed by the jurisprudential developments in England, as evident from the following cases:

- (a) In an earlier case, the Supreme Court held that in case where there is no express agreement between the parties as to the law governing the arbitration agreement, the law which governs the

main agreement shall also govern the arbitration agreement if the arbitration clause is stipulated as a part of the main agreement (see *Hitachi Limited v Rupali Polyester* 1998 SCMR 1618).

- (b) Later, in *Abid Associated Agencies v Areva* 2015 MLD 1646, the Islamabad High Court approved the three-stage enquiry formulated in the English case of *Sulamérica Cia Nacional de Seguros SA v. Enesa Engenharia SA* [2012] EWCA Civ 638 to determine the law governing the arbitration agreement. Pursuant to this three-step test, the courts must determine: first, whether the parties expressly chose the law of the arbitration agreement; second, whether an implied choice by the parties has been made; and, last, in the absence of express or implied choice, the system of law with which the arbitration agreement has the closest and the most real connection.
- (c) More recently, in *Zaver Petroleum Corporation (Pvt) Ltd v Saif Energy Limited* PLD 2025 Islamabad 219 ("*Zaver Petroleum*"), the Islamabad High Court, without going into a detailed discussion about the determination of the law governing the arbitration agreement, referred to United Kingdom's Supreme Court's judgment in *Enka Insaat ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38 ("*Enka*"). In *Zaver Petroleum*, the Court relied on *Enka* to delineate the difference between the "*the law governing the agreement to arbitrate*" and "*law governing the arbitration process*" (i.e., the curial law). The Court's reliance on *Enka*, however, may mean that the principles laid down by the United Kingdom's Supreme Court for determination of the law governing the arbitration agreement would be highly persuasive for the courts in Pakistan as well in future cases.

If the parties have executed a stand-alone arbitration agreement, the courts are likely to follow the three-step inquiry, as set out in *Abid Associated Agencies v Areva* 2015 MLD 1646, to determine the law of arbitration agreement, though there are no cases to this effect.

2.2 In the absence of an express designation of a 'seat' in the arbitration agreement, how do the courts deal with references therein to a 'venue' or 'place' of arbitration?

The Supreme Court of Pakistan held that any reference to the 'place of arbitration' should be construed as choice of seat of arbitration by the parties (see *Societe Generale De Surveillance S.A. v Pakistan* 2002 SCMR 1694).

The courts will likely apply the same approach to any reference to the 'venue' in the arbitration agreement in the absence of an express designation of the seat.

2.3 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

The arbitration agreement, even if it is embedded in the main contract, is considered to be separable and severable from the main contract and is not affected by frustration or repudiation of the main contract. Although this principle is not expressly recognised in a statutory provision, the courts have consistently recognised it in recent judgments:

- (a) In *Lakhra Power Generation Company Limited v Karadeniz Powership Kaya Bey* 2014 CLD 337, the High Court of Sindh stated that the principle that an arbitration clause stipulated in a contract is deemed to be a separate agreement and remains operative and unaffected by any factor that vitiates the main contract is "*well settled in Pakistan and of long standing*".
- (b) In *MS China Petroleum Pipeline Bureau v BST Services* 2020 MLD 1933, the High Court of Sindh held that "*an arbitration clause is to be considered independently as the sole determination to be made with respect to the forum for the resolution of disputes...*".
- (c) More recently, in *SpaceCom International, LLC v Wateen Telecom Limited* 2025 CLD 241, the Lahore High Court—while discussing that the procedural law, proper law of the contract, and law governing the arbitration agreement can all be different—held that it is an established principle of arbitration

law that “an arbitration agreement is separable from the main contract between the parties and an arbitration agreement may have a different law from that of the proper law...”.

However, an earlier judgment of the Supreme Court in *HUBCO v WAPDA* PLD 2000 SC 841 has cast some doubt on the principle of separability. In this case, the Supreme Court held, on narrow grounds, that the disputes relating to corruption and criminal acts, relating to the very existence of a valid contract, are not disputes under a contract and cannot be referred to arbitration according to public policy. The Supreme Court’s decision has been criticised by international arbitration practitioners.¹ Since this judgment has not been expressly overruled, it leaves some doubt on the status of the principle of separability under the law of Pakistan. Given the recent pro-enforcement bias towards arbitration, it is likely that the courts will apply the doctrine of separability more liberally and effectively.

2.4 What are the formal requirements (if any) for an enforceable arbitration agreement?

Section 2(a) of the Arbitration Act defines the arbitration agreement as “a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not”. Thus, the arbitration agreement must be in writing and must refer either present or future disputes to arbitration.

The 2011 Act also requires that the arbitration agreement shall be in writing. Such writing can take various forms, including “an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams” (see *Louis Dreyfus Commodities Suisse S.A. v Acro Textile Mills Ltd* PLD 2018 Lahore 597).

The law does not prescribe any particular form for an arbitration agreement. For example, an arbitration agreement may be a clause in a contract between the parties or it may be a separate agreement to refer any dispute arising out of the contract to arbitration. It is more common for the arbitration agreement to be stated as a clause in an underlying contract between the parties.

There is no formal requirement for an arbitration agreement to be signed by the parties. An arbitration agreement can be reached through the exchange of emails or documents signed electronically/digitally (see *Louis Dreyfus Commodities v Acro Textile* PLD 2018 Lahore 597). It is necessary that the parties accept the terms of the arbitration agreement; the acceptance may be in writing or by conduct (see *Syed Munir v Sardar Muhammad Kamal Khan* 2019 YLR 209).

In *Virgoz Oils & Fats Pte. Limited v Faisal Exports (Pvt.) Limited* 2025 SHC KHI 50, the High Court of Sindh reaffirmed that a binding contract does not necessarily require a formally executed written agreement; rather, it may be “teased out” from exchange of emails and correspondence. The High Court of Sindh refused to recognise and enforce the arbitral award under Article V(1)(a) of the New York Convention, holding that “no enforceable contract was ever concluded” between the parties as there was no written communication from one of the parties evidencing acceptance of offer.

The courts of Pakistan have recognised that an arbitration agreement can be incorporated into one agreement by reference to another agreement. The Supreme Court in *Orient Power Company Limited v SNGPL*, 2021 SCMR 1728 held that an arbitration clause in one agreement can be incorporated into another where the two agreements are so interconnected that clearly the parties could not have intended that it would be commercially sensible or realistic that disputes arising under any of them be decided by different forums.

¹ See, e.g., Nudrat B. Majeed, *Commentary on the HUBCO Judgement Arbitration International*, Volume 16, Issue 4, 1 December 2000, Pages 431–438, <https://doi.org/10.1093/arbitration/16.4.431>; and Zheng Sophia Tang, *Jurisdiction and Arbitration Agreements in International Commercial Law* (Routledge 2014) 97-98.

2.5 To what extent, if at all, can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

Pakistani courts have held that a third party or a person who is not a party to the arbitration agreement cannot take advantage of the arbitration agreement and, as a result, would not be bound by the arbitration agreement (see *Pakistan Real Estate Investment and Management Company (Pvt) Ltd v Sohail A Khan* PLD 2018 Islamabad 115).

In *Qatar Lubricants Company W.L.L. v Atif Naeem Rana* 2025 CLD 78, the Lahore High Court was presented with an application to stay legal proceedings brought under the Companies Act, 2017. The Lahore High Court held that not all parties to the suit were parties to the arbitration agreement and bifurcation of judicial action cannot be allowed. Refusing to stay proceedings under Section 34 of the Arbitration Act, the Lahore High Court held that “[a] non-signatory cannot compel arbitration except under exceptional circumstances. In the absence of any contract to that effect, an agent cannot personally enforce contracts entered into by them on behalf of their principal, nor are they personally bound by them.”

However, the Supreme Court of Pakistan in *Kausar Rana Resources (Private) Limited v Qatar Lubricants Company W.L.L. C.P.L.A. No 4468/2024* overturned the decision of the Lahore High Court and held that the agreement between the parties obligated one party to transfer shares to the other party or to its nominee. Therefore, the nominee derived its right and obligations, including the right to enforce arbitration agreement, through the signatory party on whose see *White Crystals Limited v Infrastructure Growth Capital Fund General Partner Limited* JM No 245 of 2024).

In *Employees Old Age Benefits Institution v Mughals Pakistan (Pvt.) Limited*, 2024 CLC 2021, the Division Bench of the Lahore High Court addressed the enforcement of a domestic arbitral award against an agent. The case involved a contract containing an arbitration clause executed through a subsidiary on behalf of a principal entity. Arbitration proceedings were initiated against the subsidiary, resulting in an award, which was later made a rule of court by the Civil Court (i.e., in simple terms, the award is made into the judgment of the court) and upheld on appeal by a Single Judge of the Lahore High Court. The principal entity, which was not made a party to the arbitration or related proceedings, challenged the decision before the Division Bench of the Lahore High Court. The Division Bench held that the subsidiary's role as an agent did not transfer contractual obligations or legal standing of the principal. The appeal was allowed, and the award and decree (i.e., formal expression of adjudication which conclusively determines rights of parties for the execution of a court's ruling) were declared invalid and without legal effect.

In conclusion, courts continue to uphold the principle that arbitration is a consensual process. Binding third parties through doctrines like agency or assignment requires clearer legal articulation and consistent judicial endorsement. The judgement in *Kausar Rana Resources (Private) Limited v Qatar Lubricants Company W.L.L. C.P.L.A. No 4468/2024* was an exception and does not set out a general rule that third parties to a contract containing an arbitration agreement are bound by the arbitration agreement. Therefore, unless exceptional circumstances exist, non-signatories generally remain outside the ambit of arbitration agreements under Pakistani law.

2.6 Are there restrictions to arbitrability? In the affirmative:

2.6.1 Do these restrictions relate to specific domains (such as anti-trust, employment law, etc.)?

Pakistani courts have held that criminal matters cannot be referred to arbitration and that the Arbitration Act applies only to civil disputes (see *Ali Muhammad v Bashir Ahmad* 1991 SCMR 1928).

In *HUBCO v WAPDA* PLD 2000 SC 841, the Supreme Court found that the underlying agreements were *prima facie* obtained through fraud and bribery and, because they were marred by corruption and criminal actions, could not be referred to arbitration. The Supreme Court held that:

"The allegations of corruption in support of which the... circumstances do provide prima facie basis for further probe into [the] matter judicially and, if proved, would render these documents as void, therefore, we are of the considered view that according to the public policy such matters, which require finding about alleged criminality, are not referable to Arbitration."

Allegations of criminal acts of fraud or other criminal acts in the execution of the arbitration agreement must be substantiated before a matter can be deemed arbitrable. In cases of domestic arbitration under the Arbitration Act where permission is required to refer a matter to arbitration the courts will not refuse the referral on merely unsubstantiated allegations of fraud and dishonesty made by one party (see Pakistan Real Estate Investment and Management Company (Pvt) Ltd v Sohail A Khan PLD 2018 Islamabad 115).

Further, the courts have held that proceedings in relation to minority shareholder oppression under the Companies Ordinance, 1984 ("**Companies Ordinance**")² cannot be stayed in light of an arbitration agreement (see WAPDA v Kot Addu Power Company Ltd 2002 MLD 829 ("Kot Addu").

In ORIX Leasing Pakistan v Colony Thal Textiles Ltd PLD 1997 Lahore 443 ("Orix Leasing"), the Lahore High Court held that the winding-up of a company cannot be the subject-matter of arbitration proceedings and stated that "*by its very nature the winding-up is a matter which has to be decided by [the] Court in exercise of its special statutory jurisdiction and cannot be subject matter of arbitration nor can order of winding-up be passed by [the] arbitrator*".

More recently, in Qatar Lubricants Company W.L.L. v Atif Naeem Rana 2025 CLD 78 the Lahore High Court refused to stay proceedings brought under the Companies Act, 2017 (which has repealed and replaced the Companies Ordinance) and referred the parties to arbitration in light of the arbitration agreement. The Lahore High Court emphasised that with respect to company matters, exclusive jurisdiction has been conferred on the High Courts, therefore, this function "*cannot be exercised by the arbitrator*." The Lahore High Court further stated the general principle that "*other matters where exclusive jurisdiction has been conferred on a special Court or Tribunal are not arbitrable, especially when the rights of third parties are likely to be affected*."

However, the Supreme Court of Pakistan in Kausar Rana Resources (Private) Limited v Qatar Lubricants Company W.L.L. C.P.L.A. No 4468/2024 overturned the decision of the Lahore High Court in Qatar Lubricants Company W.L.L. v Atif Naeem Rana 2025 CLD 78 and held that mere fact that exclusive jurisdiction to a civil dispute has been conferred upon a special court or tribunal does not render such dispute non-arbitrable.

The decision of the Supreme Court of Pakistan in Kausar Rana Resources (Private) Limited v Qatar Lubricants Company W.L.L. C.P.L.A. No 4468/2024 has an overriding effect on Kot Addu and ORIX Leasing and clarifies that where the law has conferred exclusive jurisdiction on courts for specific domains, such domains do not *ipso facto* become non-arbitrable. Questions remain outstanding, however, about the extent of reliefs that can be granted by arbitral tribunal in comparison to the courts with exclusive jurisdiction.

Further, the Lahore High Court, in the case of Nosheeba Nazeer v Sajjad Ahmed, 2021 CLC 704 held that matters in relation to guardianship and custody are considered to be non-arbitrable, and any agreement to that affect will be unenforceable.

Although the Pakistani courts have not developed a clear test of arbitrability, it is most likely that certain disputes would be considered non-arbitrable in line with the jurisprudence in other common law countries (such as India and England), which are persuasive authority before the courts of Pakistan.

² Companies Ordinance, 1984 was the general law applicable to the operation and regulation of companies in Pakistan. The Companies Ordinance, 1984 has been repealed and replaced by the Companies Act, 2017.

2.6.2 Do these restrictions relate to specific persons (i.e., State entities, consumers, etc.)?

There is no restriction on arbitrability in relation to specific persons.

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

3.1.1 If the place of the arbitration is inside of the jurisdiction?

If the place of arbitration is inside Pakistan, the arbitration is likely to be conducted under the Arbitration Act.

Pursuant to Section 34 of the Arbitration Act, the civil courts have the discretion to stay litigation if there is a valid arbitration agreement covering the dispute. For a stay to be granted under this provision, a party seeking the stay must apply for the stay *"at any time before filing a written statement [i.e., a statement of defense] or taking any other steps in the proceedings..."*.

In *Uzin Export Import Enterprises v M Iftikhar & Company Ltd* PLD 1986 Karachi 1, the Sindh High Court endorsed the view that for the stay to be granted under Section 34 of the Arbitration Act, the following conditions must be met:

- (a) The proceedings must have been commenced by a party to an arbitration agreement against any other party to the agreement;
- (b) The legal proceedings sought to be stayed must be in respect of a matter agreed to be referred to arbitration;
- (c) The applicant for a stay must be a party to the legal proceedings and he must, as stated above, have taken no step indicating its intention to relinquish its right to arbitrate after appearing in the legal proceedings.
- (d) The applicant must also satisfy the court that he is (and was at the commencement of the proceedings) ready to properly engage in arbitration proceedings;
- (e) The court must be satisfied that there is no sufficient reason why the matter should not be referred to arbitration in accordance with the arbitration agreement.

When an application under Section 34 of the Arbitration Act is brought in a pending suit, further proceedings in the suit are automatically suspended till the decision of the application (see *SGEC-AMC JV v National Highway Authority* 2024 CLD 301).

Recently, in *Trade Smart Securities (Private) Limited v Securities & Exchange Commission of Pakistan*, 2024 SHC KHI 276, the High Court of Sindh reaffirmed its pro-arbitration policy by declining to interfere with a pending request for arbitration. A party had filed a constitutional petition challenging administrative notices issued by the Pakistan Stock Exchange ("**PSX**") pursuant to the PSX Rule Book to initiate arbitration proceedings between a broker and its clients. The broker argued that the arbitration was time-barred and that the arbitral tribunal lacked jurisdiction. The Court held that such objections fall squarely within the scope of the arbitral tribunal's authority under the principle of "*Kompetenz-Kompetenz*," which allows the tribunal to determine its own jurisdiction, including issues relating to limitation. Dismissing the petition, the Sindh High Court emphasised that where there is *"an arbitration agreement between the parties, there is no other option left but for the aggrieved party to proceed with the agreed alternative dispute resolution mechanism, i.e. arbitration."*

In *Rana Muhammad Ikram v Punjab* 2005 CLC 206, the Lahore High Court held that the words *"or taking any other steps in the proceedings"* mean *"steps which are indicative of the intention of a party to the proceedings that the party was not going to raise objection to the jurisdiction of the Court or was not ready to refer the dispute to the Arbitrator or was willing to contest the suit before the learned Court through his act and conduct, express or implied."*

In *Government of Punjab v Muhammad Asad & Co.* 2021 CLC 2135, the Lahore High Court construed Section 34 of the Arbitration Act strictly by ruling that a mere adjournment sought by a party for filing a written statement would be sufficient to relinquish such party's claim to have the dispute decided under the arbitration clause.

Constitutional questions can also have a bearing on whether a dispute falls within the scope of the arbitration agreement. In *K-Electric Limited v Pakistan* PLD 2014 Sindh 504, the issue was whether the state entity acted in accordance with the powers granted under the Constitution of Pakistan. The High Court of Sindh found that these facts required looking into the constitutional power and limitation; hence, the dispute was found to be beyond the scope of arbitration.

Inconvenience to the parties to travel and present evidence may also be a sufficient reason for not referring a dispute to arbitration (see *Eckhardt & Co v Muhammad Hanif* PLD 1993 SC 42).

3.1.2 If the place of the arbitration is outside of the jurisdiction?

Where the place of arbitration is also outside Pakistan, the courts have held that the litigation must be stayed under Section 4 of the 2011 Act (see *Far Eastern Impex v Quest International* 2009 CLD 153). Furthermore, a formal application under Section 4 of the 2011 Act is not required; rather, a defendant's consistent position in favour of enforcing the arbitration agreement is sufficient for the court to grant a stay of legal proceedings (see *TCB Aviation (Pvt) Limited v Sri Lankan Airlines Limited* PLD 2024 Sindh 387).

Pursuant to Section 4 of the 2011 Act, courts in which legal proceedings have been brought are mandated to refer disputes to arbitration where the court finds that a valid arbitration agreement exists between the parties. The High Court of Sindh in *Harbin Electrical International Company Limited v Siddiqsons Limited Suit No 575 of 2021* endorsed the view that for the stay to be granted under Section 4 of the 2011 Act, the following conditions must be met:

- (a) There must be an agreement to which Article II of the New York Convention applies.
- (b) A party to that agreement must commence legal proceedings against another party thereto; and
- (c) The legal proceedings must be in respect of any matter agreed to be referred to arbitration in such agreement, in as much as the Court has to be satisfied that there are disputes between the parties with regard to matters agreed to be referred.

The High Court of Sindh also set out following exceptions on the basis of which a court can refuse stay of legal proceedings under Section 4 of the 2011 Act:

- (a) the subject matter of the dispute is not capable of settlement by arbitration;
- (b) the agreement is null and void;
- (c) the agreement is inoperative; or
- (d) the agreement is incapable of being performed.

The courts are generally consistent in granting stay of court proceedings where the place of arbitration is outside Pakistan, provided that it falls under the scope of the 2011 Act.

3.2 How do courts treat injunctions by arbitrators enjoining parties to refrain from initiating, halt or withdraw litigation proceedings?

There are no reported cases where the courts have had to deal with injunctions by arbitrators to stay litigation proceedings. There are no legislative provisions empowering the arbitrators to issue injunctions to stay court proceedings. Despite the lack of clarity on this issue, it is likely that the courts would hold that the

arbitrators do not have power to issue injunctions to stay court proceedings (due to a lack of clear statutory or judicial authority on this issue).

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction? (Relates to the anti-suit injunctions / anti-arbitration injunctions or orders, but not only)

Before the enactment of 2011 Act, the courts in Pakistan have, at times, interfered in arbitration proceedings seated outside Pakistan.

In *SGS v Pakistan* 2002 SCMR 1694, the Supreme Court restrained a party from taking any step, action, or measure to pursue, participate in or continue to pursue or participate in an ICSID arbitration. This judgment was based on the ground, amongst others, that the disputes between the parties had been referred to arbitration in Pakistan under the Arbitration Act.

In another case, a party to the litigation pending before the Supreme Court initiated two parallel proceedings before the ICC and ICSID. The Supreme Court, at the interim stage, ordered that party to make a request to the ICC and ICSID not to take further steps in the proceedings and to extend the period for the nomination of the arbitrator so that the Supreme Court, which was adjudicating the matter regarding the validity of the agreement between the parties, may dispose of that matter finally. The Supreme Court did not make specific orders in relation to the arbitral proceedings (see *Maulana Abdul Haq Baloch v Government of Pakistan (Reko Diq case)* 2012 SCMR 402) in the interim order or the final judgment. The arbitrations related to this case proceeded; the ICSID arbitration resulted in an award in July 2019 (see *Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan* (ICSID Case No. ARB/12/1)).

However, following the enactment of 2011 Act, the court adopted a more restrictive approach with respect to intervention in foreign judicial proceedings. In *Pakistan National Shipping Corporation v Coniston Limited* 2020 CLC 454, the High Court of Sindh refused to grant an anti-suit injunction against proceedings in South Africa notwithstanding that parallel arbitration proceedings were pending in Karachi. The Sindh High Court adopted a restrictive and conservative approach in considering whether to grant an anti-suit injunction in respect of the foreign court proceedings.

In conclusion, the position has seemingly changed with the implementation of the 2011 Act, which adopts a pro-arbitration policy.

4. The conduct of the proceedings

4.1 Can parties retain foreign counsel or be self-represented?

Parties can retain outside counsel or be self-represented. However, as is the case in litigation, the parties usually retain outside counsel in arbitration rather than be self-represented.

4.2 How strictly do courts control arbitrators' independence and impartiality? For example: does an arbitrator's failure to disclose suffice for the court to accept a challenge or do courts require that the undisclosed circumstances be of a gravity such as to justify this outcome?

Pursuant to Section 11 of the Arbitration Act, the courts can remove an arbitrator where the arbitrator fails to use all reasonable dispatch in proceeding with the arbitration and making the arbitral award or in the event of arbitrator's misconduct (including arbitrator's bias or partiality). The courts have held that allegations of bias, whether actual or possible, must be based on clear and cogent evidence, which has to be judged from a reasonable point of view and "not on mere apprehension of any whimsical person" (see *Pak UK Association v Jordon* 2017 CLC 599).

The Sindh High Court in the case of *Surriya Rehman v Siemens Pakistan* PLD 2011 Karachi 571 held that the mere fact that an officer or director of one party has been expressly chosen as arbitrator in the arbitration agreement is not a ground in and of itself to refuse the referral of the dispute to arbitration. The Sindh High Court further elaborated that allegations of bias cannot be made against a position e.g., a director or CEO, it

would arise in respect of the acts and omissions of a person in an individual capacity. In other cases, the courts rejected a party's nomination of its auditor as an arbitrator without disclosure of this fact to the other party (see *Bata Shoe Co v Pakistan* PLD 1970 Karachi 784).

The Islamabad High Court in *Pakistan Medical Commission v Construction Experts (Pvt.) Limited* PLD 2023 Islamabad 1 held that if the arbitration agreement contains a named arbitrator, reference has to be made to such arbitrator and a party is "precluded from approaching the court for appointing an arbitrator other than the named arbitrator... on the claim that the designated person would not be impartial or objective." The Islamabad High Court endorsed the view expressed in *Pak UK Association v Jordon* 2017 CLC 599.

The Arbitration Act does not include any provisions requiring arbitrators to make any disclosures to the parties regarding conflicts of interest at the time of appointment.

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of *ad hoc* arbitration)?

Courts can intervene to assist in the constitution of the arbitral tribunal under Section 8 of the Arbitration Act in the following cases:

- (a) Where an arbitration agreement provides for arbitration by one or more arbitrators to be appointed by consent of parties, and all the parties do not, after disputes have arisen, concur with the appointment(s);
- (b) Where an appointed arbitrator or umpire neglects or refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be filled, and the parties or the arbitrators, as the case may be, do not fill a vacancy;
- (c) Where the parties or arbitrators are required to appoint an umpire and do not appoint him.

Before seeking court intervention, a party must serve a written notice on the other parties or the arbitrators, as the case may be, to concur in the appointment or appointments or in filling the vacancy. An application to the court can be made after fifteen days following service of this notice. The court may appoint the arbitrator(s) after giving the other party(ies) an opportunity to be heard. Section 8 of the Arbitration Act does not specify the timelines within which the court may appoint the arbitrator(s).

4.4 Do courts have the power to issue interim measures in connection with arbitrations? If so, are they willing to consider *ex parte* requests?

Pursuant to Section 41 of the Arbitration Act, courts have the power to issue interim measures. Courts in which the proceedings are pending are held to be competent and vested with the jurisdiction to pass interim orders as could be passed in a regular civil suit in the form of a temporary injunction or otherwise (see *SGS v Pakistan* 2002 SCMR 1694). Further, the party can invoke the jurisdiction of the courts under Section 41 to apply for interim relief before the commencement of or during arbitration proceedings, or even after the arbitration award has been rendered. Seeking interim or conservatory measures from the court does not constitute a waiver of the arbitration agreement (see *Ovex Technologies (Private) Limited v PCM PK (Private) Limited*, PLD 2020 Islamabad 52).

Whether the courts have the power to issue interim orders in relation to foreign-seated arbitrations is debatable. In a recent case before the civil courts in Lahore, it was held that the courts have the power to grant interim orders in relation to arbitrations seated outside Pakistan in view of the general plenary powers of the court. This argument that civil courts have the jurisdiction, as part of their plenary powers under the Civil Procedure Code, 1908, to grant interim injunctions in relation to foreign-seated arbitration, has however not been comprehensively tested by the superior courts of Pakistan.

4.4.1 Does it provide for the confidentiality of arbitration proceedings?

Courts are willing to consider *ex parte* requests and issue injunctions on an *ex parte* basis under Section 41 of the Arbitration Act read with Order 39 Rules 1 and 2 of the Civil Procedure Code, 1908. Further, the courts have all the powers under Civil Procedure Code, 1908 to make any order in relation to arbitration proceedings, this can include any procedural or administrative order that might be required in circumstances.

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

The laws of Pakistan do not expressly provide for the confidentiality of arbitration proceedings. Neither the Arbitration Act nor the 2011 Act makes any reference to confidentiality of arbitration proceedings.

4.5.2 Does it regulate the length of arbitration proceedings?

Section 3 of the Arbitration Act provides that an arbitration agreement, unless a different intention is expressed therein, shall be deemed to include the provisions set out in the First Schedule of the Arbitration Act. The First Schedule requires that the arbitrators shall make their award "*within four months after entering on reference or after having been called upon to act by notice in writing from any party to the arbitration agreement or within such extended time as the court may allow*".

The failure to make an award within the statutory period does not operate as a revocation of an arbitrator's authority. Pursuant to Section 28 of the Arbitration Act, the court has the discretion to extend the time for issuing the award from time to time as it thinks fit, irrespective of whether the time to issue the award has expired or not and whether the award has been issued or not. Further, even without a formal application by the party or the arbitrator, the court is empowered under Section 28 to the Arbitration Act to extend the time on its own accord by taking into considerations the consent of the parties to such proceedings (see *MS Telecom Foundation v MS Asko Enterprises* 2020 CLC 1605 Islamabad).

4.5.3 Does it regulate the place where hearings and/or meetings may be held, and can hearings and/or meetings be held remotely, even if a party objects?

The Arbitration Act does not state any express requirements in relation to the place where hearings and/or meetings may be held.

4.5.4 Does it allow for arbitrators to issue interim measures? In the affirmative, under what conditions?

The Arbitration Act does not empower arbitrators to issue interim measures.

4.5.5 Does it regulate the arbitrators' right to admit/exclude evidence? For example, are there any restrictions to the presentation of testimony by a party employee?

The 1984 Qanun-e-Shahadat Order, which sets out the law of evidence in Pakistan, does not apply to arbitration proceedings (Section 1(2) of the 1984 Qanun-e-Shahadat Order).

The Arbitration Act also does not regulate the arbitrators' right to admit/exclude evidence in arbitral proceedings. Pakistani courts have held that the arbitrator is the sole judge of the quality and quantity of evidence (see *GERRY's International (Pvt.) Ltd. v Aeroflot Russian International Airlines* 2018 SCMR 662).

The First Schedule of the Arbitration Act provides that the parties shall be deemed to have agreed to:

- (a) Submit themselves to be examined by the arbitrator(s) on oath or affirmation in relation to the matters in the arbitration;

- (b) Produce before the arbitrator(s) all books, documents, papers, accounts, writings, and documents within their power and possession; and
- (c) Do all other things which the arbitrator(s) may require during the arbitration proceedings (within the limits of the rules of natural justice).

Pursuant to Section 43 of the Arbitration Act, the courts are empowered to issue a summons to parties or witnesses whenever the arbitrators desire to examine them. A summons may be issued for the examination of a witness or production of documents. Failure to comply with the summons can result in the same penalties and punishments that would result as if the offence was committed against the courts.

4.5.6 Does it make it mandatory to hold a hearing?

There is no express provision under the Arbitration Act that mandates holding a hearing. However, the principles of natural justice (including the right to be heard) apply to an arbitration by virtue of which a hearing would be conducted. It is likely that if the parties agree to conduct arbitration without the hearing or waive their right of hearing, the arbitration may well be conducted without a hearing.

4.5.7 Does it prescribe principles governing the awarding of interest?

An arbitrator can award interest on just and equitable grounds even in the absence of a specific contract between the parties (see *Pakistan Steel Mills v Mustafa Sons* PLD 2003 SC 301).

The following principles apply to the award of interest:

- (a) The arbitral tribunal can award interest accrued prior to the institution of the suit compelling arbitration or the reference to the arbitration on the basis of (i) an agreement, express or implied between the parties; (ii) mercantile usage, (iii) statutory provisions, or (iv) just and equitable grounds (see *Ghulam Abbas v Trustees of Port of Karachi* PLD 1987 SC 393);
- (b) The arbitral tribunal cannot award interest *pendente lite*, i.e., from the date of the institution of the suit/reference to the date of the award (see *WAPDA v Ice Pak International Consulting Engineers of Pakistan* 2003 YLR 2494) but such power is available with the courts under Section 34 of the Code of Civil Procedure, 1908;
- (c) The arbitral tribunal may grant interest from the date of the award until the date of the decree of the court enforcing the arbitral award (although the courts have differing opinions on this issue); and
- (d) Section 29 of the Arbitration Act provides that, where and insofar as an award is for the payment of the money, the court may, in its decree, order interest, from the date of the decree at such rate as the court deems reasonable, to be paid on the principal sum as adjusted by the award and confirmed in the decree.

4.5.8 Does it prescribe principles governing the allocation of arbitration costs?

The Arbitration Act does not set out any guidance on the tribunal's power to allocate costs and there are no reported cases on this either. However, as there is no restriction on the tribunal's power to grant costs, in theory the tribunal has power to that effect.

In addition, Section 38(3) of the Arbitration Act states that the court may make such orders as it deems reasonable regarding the costs of an arbitration where any question arises about such costs and the award contains no sufficient provision concerning them.

4.6 Liability

4.6.1 Do arbitrators benefit from immunity from civil liability?

The arbitrator's immunity is not governed by statute. The courts have held that "*no action, and that too of criminal nature, can be initiated against the arbitrators*" (see Haq Nawaz v the State 2005 YLR 1850). Thus, it can be stated that arbitrators benefit from immunity to criminal liability in relation to performance of their arbitral role. In rare instances, the arbitrator can be held liable in a civil claim. In Haq Nawaz v the State 2005 YLR 1850, the arbitrator was given two vehicles as security. The arbitrator later transferred the vehicles to another person. The court held that, if the arbitrator by transferring the security vehicles has overstepped his authority, a party can file a suit for damages against the arbitrator.

Further, if an arbitrator has committed some misconduct related to his performance or the proceedings, a party may apply to the court for the removal of the arbitrator under Section 11 of the Arbitration Act. Under Section 11, the misconduct means "*misconduct in the judicial sense arising from some honest, though erroneous, breach and neglect of duty and responsibility on the part of the arbitrator causing miscarriage of justice*" (see Federation of Pakistan v James Construction Company (Pvt) Ltd PLD 2018 Islamabad 1).

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

The possibility of criminal liability of any of the participants to the arbitration generally does not have an impact on the arbitration proceedings.

Further, the presence of an arbitration agreement does not bar criminal liability of the parties. In M. Aslam Zaheer v Shah Muhammad 2003 SCMR 1691, the parties entered into an agreement that contained an arbitration clause. However, one of the parties to an agreement filed a complaint for the registration of criminal case against the other party. The court in this case held that where the same set of facts gives rise to both civil and criminal liabilities, a party may press criminal charges against the other party in a separate proceeding. Further, the court held that presence of an arbitration agreement between the parties does not bar the registration of a criminal case.

5. The award

5.1 Can parties waive the requirement for an award to provide reasons?

Section 26-A of the Arbitration Act states that the arbitrators shall "*state in the award the reasons for the award in sufficient detail to enable the Court to consider any question of law arising out of the award*". This implies that the parties cannot waive the requirement for an award to provide reasons.

In the event that the award does not state the reasons in sufficient detail, Section 26-A(2) of the Arbitration Act provides that the court shall remit the award to the arbitrators and fix the time within which the arbitrator or umpire shall submit the award together with the reasons in sufficient detail. In Bibi Imdad Khatoon v Bahr Ali Shah 2024 CLC 1957, the Sindh High Court, exercising revisional jurisdiction, set aside a domestic award for lack of adequate reasoning. The Sindh High Court, relying on Umar Din through L.Rs. v. Mst. Shakeela Bibi and others 2009 SCMR 29, ruled that Section 26-A of the Arbitration Act mandatorily requires that arbitrators give out reasons for reaching the conclusion of their decision including the documents and evidence relied upon. This is to ensure that the court tasked with making the award a rule of court can examine the correctness of the reasons and conclusions of the arbitrator(s). The court also endorsed the view that an "*arbitrary, non-speaking, sketchy, careless and sleazy award*" (which does not contain proper reasoning for a decision) is liable to be set aside.

5.2 Can parties waive the right to seek the annulment of the award? If yes, under what conditions?

Parties cannot waive the right to seek the annulment (or setting aside) of the arbitral award through an agreement to that effect. Such a waiver would contravene Section 28 of the Contract Act, 1872, which provides that an agreement in restraint of legal proceedings is void save for, amongst others, a contract to refer disputes to arbitration.

5.3 What atypical mandatory requirements apply to the rendering of a valid award rendered at a seat in the jurisdiction?

There are no atypical mandatory requirements that apply to the rendering of a valid arbitral award in Pakistan.

Section 14 of the Arbitration Act provides that an arbitral award must be signed and filed with the competent court. Section 14(1) states that the arbitrators shall sign the award once they have made it and shall give notice in writing to the parties of the making and signing thereof.

Under Section 14(2), the arbitrators shall cause the award or a signed copy of it to be filed with the court upon the request of any party to the arbitration agreement or at the direction of the court, and the court shall thereupon give notice to the parties of the filing of the award. The Islamabad High Court clarified that there is no impediment that an award is filed by one of the parties before the court for enforcement because "[w]here the arbitrator gives copies of the award to the parties, they would be deemed to have an implied authority of the arbitrator to file it in the Court" (see *Oil and Gas Development Company Limited v Muhammad Nazir Khan* 2024 CLC 988).

The Supreme Court in the case of *Sardar Muhammad Kamal-ud-Din Khan v Syed Munir Syed* 2022 SCMR 806 set aside an award on the basis that the award did not mention or discuss the written claims of the parties. Further, there was no mention that the defendant was provided the opportunity to lead evidence or cross examine the plaintiff or its witnesses. Accordingly, the Supreme Court ruled that the award was made in undue haste and disregarded due process and a fair trial.

5.4 Is it possible to appeal an award (as opposed to seeking its annulment)? If yes, what are the grounds for appeal?

A party cannot appeal an arbitral award.

In terms of the Arbitration Act, recourse against arbitral awards is limited to three options, which are:

- (a) Firstly, an application for modification or correction of the award under Section 15 of the Arbitration Act where:
 - (i) Part of the award rendered a decision on matters not referred to arbitration, is separable from the other parts of the award, and does not affect the decision of matters referred to arbitration;
 - (ii) The award is imperfect in form or contains obvious errors, which can be amended without affecting the decision; or
 - (iii) The award contains clerical mistakes or errors arising from an accidental slip or omission,
- (b) Secondly, an application for remittance of the award to the arbitral tribunal for reconsideration under Section 16 of the Arbitration Act where:
 - (i) The award has not rendered a decision on a matter referred to arbitration;

- (ii) The award has rendered a decision on a matter not referred to arbitration and such matter cannot be separated without affecting the determination of the matters referred;
 - (iii) The award is indefinite and incapable of execution; or
 - (iv) The objection to the legality of the award is apparent on the face of the award, and
- (c) Thirdly, an application for setting aside the award under Section 30 of the Arbitration Act on the grounds amongst others, “that an arbitrator has misconducted himself or the proceedings” or that “an arbitral award has been improperly procured or is otherwise invalid”.

The Supreme Court has held that a court while hearing objections against an award in proceedings under Section 30 of the Arbitration Act could not sit as a court of appeal against an award and interfere with the merits (see *President of Pakistan v Tasneem Hussain* 2004 SCMR 590).

Finally, since Pakistan is a party to the New York Convention, under Section 7 of the 2011 Act the recognition and enforcement of a foreign arbitral award made in another contracting State shall not be refused except in accordance with Article V of the New York Convention.

5.5 What procedures exist for the recognition and enforcement of awards, what time-limits apply and is there a distinction to be made between local and foreign awards?

The principles and procedures in relation to domestic awards are set out in Arbitration Act, and principles and procedure in relation to and foreign awards are set out in 2011 Act, as discussed below.

For domestic awards, pursuant to Section 14 of the Arbitration Act, once the award has been made, the arbitrators must sign the award and notify the parties in writing of the making of the award. Further, the arbitrators shall, at the request of any party, cause the award or signed copy thereof to be filed in the Civil Court within 90 days from the date of service of notice of making an award.³ The Court shall then notify the parties of the filing of the award. However, where the arbitrator does not notify the parties of making of the award, the limitation period is 3 years for the award to be filed in the Civil Court according to Article 181 of the First Schedule of the Limitation Act, 1908 (see *Telecom Foundation v Asko Enterprises*, 2020 CLC 1605, Islamabad High Court).

Pursuant to Section 17 of the Arbitration Act, the court shall proceed to issue a judgment according to an award provided that the following conditions are satisfied:

- (a) The court sees no cause to remit the award or any of the matters referred to in arbitration for reconsideration to the arbitral tribunal;
- (b) No application for setting aside the arbitral award has been made within 30 days of the service of notice of filing of the award; and
- (c) If any application for setting aside the arbitral award has been made, it has been refused by the court.

After the court pronounces a judgment recognising the award under Section 17 of the Arbitration Act, a decree shall follow and “no appeal shall lie from such decree except on the ground that it is in excess of, or not otherwise in accordance with, the award”.

On the other hand, in case of foreign awards a party applying for recognition and enforcement of a foreign arbitral award under the 2011 Act shall, at the time of the application, furnish the following documents to the High Court in accordance with Article IV of the New York Convention:

³ Article 178 of First Schedule of Limitation Act, 1908.

- (a) Duly authenticated original award or a duly certified copy thereof;
- (b) Original arbitration agreement or a duly certified copy thereof;
- (c) Translation of the documents above, if required.

The 2011 Act does not provide the period of limitation for the enforcement of foreign arbitral awards. Thus, the general limitation period of 6 years under the laws of Pakistan may apply to an application for recognition and enforcement of a foreign arbitral award. The courts in Pakistan have not yet ruled over this issue.

5.6 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

The law does not provide for automatic suspension of the exercise of the right to enforce an award.

While there is no automatic suspension of the right to enforce an award, the court may suspend enforcement proceedings as an interim measure. In an unreported case, the High Court of Sindh ordered *sine dine* adjournment of enforcement proceedings in Pakistan due to the ongoing appeal proceedings against the foreign arbitral award in Singapore (see New Metallurgy Hi-Tech Group CO., LTD v Siddiqsons Tin Plate Limited 2024 SHC KHI 199).

5.7 When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?

There are no reported judgments in Pakistan on this issue, and it has not yet been addressed by legislation or academic literature.

5.8 Are foreign awards readily enforceable in practice?

The courts of Pakistan have endorsed the pro-enforcement bias of the New York Convention (see Abdullah v CNAN PLD 2014 Sindh 349 ("Abdullah")). This position was reaffirmed by the Sindh High Court in Cynergyico Pk Limited v Trafigura PTE Limited 2023 SHC KHI 374, where the Court refused to entertain a suit seeking to set aside a foreign arbitral award. Citing Abdullah, the Court reiterated that "*from a procedural law perspective, be it Article V(1) or V(2), it follows that there now appears to be no possibility for the Award-Debtor against whom the Award has been made to seek declaratory relief concerning the invalidity of the Award by filing a Suit for Declaration and Permanent Injunction...*".

Foreign arbitral awards are readily enforceable in practice in Pakistan under the 2011 Act. Recent cases in which foreign arbitral awards have been enforced in Pakistan are as follows:

- Metro Metals Northwest Inc. v Mughal Iron and Steel Limited COS No 42300/2022
- Midstar (Singapore) Pte Ltd v Tahir Omer Industries Ltd COS 12977 of 2022
- Reinhart India (Private) Limited v Bashir Cotton Mills Limited 2023 CLD 1051
- Taisei Corporation v A. M. Construction Company (Pvt) Ltd 2024 SCMR 640
- Tradhol International SA Sociedad Unipersonal v Shakarganj Limited 2023 CLD 819
- Porsche Middle East and Africa FZE V. M/s. Performance Automotive (Pvt.) Ltd. J.M. No. 15 of 2025

The judgments above, along with the cases dealing with the enforcement of arbitration agreements under Article II of the New York Convention, demonstrate the increased inclination of the courts to recognise and enforce arbitral awards under the New York Convention.

In three instances, the courts of Pakistan have refused to recognise and enforce a foreign arbitral award:

- (a) In *SpaceCom International LLC v Wateen Telecom Limited* 2024 LHC 5494, the Lahore High Court was presented with an application to enforce a foreign arbitral award issued in the Dubai International Financial Centre ("the **DIFC**"), United Arab Emirates by the arbitral tribunal constituted under the DIFC-LCIA Arbitration Rules. The award debtor argued that under the arbitration agreement, the seat of the arbitration was "*Dubai U.A.E.*" and not the DIFC, which are separate and distinct jurisdictions. Relying on Article V(1)(d) of the New York Convention, the award debtor contended that the award should be denied enforcement and recognition for not adhering to the arbitration agreement.

The Lahore High Court noted that the DIFC Court of First Instance, while granting an anti-suit injunction, also issued a decision on the seat of arbitration. The tribunal relied on this to dismiss jurisdictional objections, treating the DIFC Court's ruling as "*res judicata as between the parties.*" The High Court found this misplaced and a clear "*fallacy on the part of the Tribunal*" and that the tribunal "*abdicated its power which is vouched by respectable authority to decide the question of jurisdiction...*".

The Lahore High Court, citing *ST Group Co. Ltd. v Sanum Investments Ltd.* [2019] SGCA 65 and *Dallah v Pakistan* [2010] UKSC 46—held that the "*issue that arbitration was not conducted at the seat of arbitration agreed by the parties or the forums so selected, would constitute a defence under the New York Convention*" and that the enforcement court must conduct a *de novo* review of the evidence to determine the seat of arbitration.

The Lahore High Court refused recognition and enforcement of the award and held that the award debtor "*has made out a case that the arbitral award does not merit recognition and enforcement under the laws of Pakistan as it is not the result of arbitration that the parties had bargained for which was an arbitration in Dubai as opposed to DIFC.*"

- (b) In *Virgoz Oils & Fats Pte. Limited v Faisal Exports (Pvt.) Limited* 2025 SHC KHI 50, the High Court of Sindh was presented with an application seeking enforcement of a foreign arbitral award. Faisal Exports objected that no valid arbitration agreement existed between the parties. The Sindh High Court emphasised that all communications with Virgoz were conducted exclusively through Faisal Exports' broker, Iqra International, and there was no written communication from Faisal Exports itself evidencing acceptance of the offer. The High Court of Sindh declined to recognise and enforce the arbitral award under Article V(1)(a) of the New York Convention, holding that "*no enforceable contact was ever concluded*" between the parties.
- (c) In *White Crystals Limited v Infrastructure Growth Capital Fund General Partner Limited* 2025 SHC KHI 727, the High Court of Sindh refused to enforce a foreign arbitral award because both parties were based in Cayman Islands and "*the books and registers of the entity that are sought to be provided to the applicant are not located in Pakistan*"; therefore, the entire cause of action in respect of the enforcement of the award is in the Cayman Islands and outside the jurisdiction of the High Court of Sindh.

As set out above, the courts of Pakistan have refused recognition and enforcement of Pakistan while remaining within the confines of the New York Convention. In these cases, the courts have acknowledged the pro-enforcement bias of the 2011 Act and the New York Convention; the courts have narrowly construed and applied the exceptions set out in Article V of the New York Convention.

6. Funding Arrangement

6.1 Are there restrictions to use of contingency or alternative fee arrangements or third party funding at the jurisdiction? If so, what is the practical and/or legal impact of such laws, regulations or restrictions?

Contingency fee arrangements are not permitted in Pakistan under the 'Canons of Professional Conduct and Etiquette of Advocates'. Fixed or flat fees and hourly billings are permissible and widely used by lawyers in Pakistan.

Agreements to finance legal proceedings are not *per se* illegal in Pakistan. In Muhammad Ramzan v Shamas-ud-din 2012 CLC 1541, the Lahore High Court held that:

"Every agreement to finance litigation per se is not opposed to public policy rather there may be a case in which it would be in the furtherance of law, equity, justice and necessary to resist oppression... Such agreements are to be carefully scrutinized and when found to be unconscionable, unjust and inequitable, for improper object, against law, oppressive or leading to vexatious litigation, the same should be treated as against the public policy."

In a case where it was found that the agreement to finance litigation was extortionate, the Karachi High Court declared that the agreement was void and unenforceable (see Riaz Ahmed v Dr Amtul Hameed Koser 1996 CLC 678).

7. Arbitration and technology

7.1 Is the validity of blockchain-based evidence recognised?

There are no reported judgments in Pakistan on the validity of blockchain-based evidence, and this issue has not been addressed in legislation or academic literature.

7.2 Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?

There are no reported judgments in Pakistan on the validity of an arbitration agreement and/or award recorded on a blockchain. This issue has not yet been addressed in legislation or academic literature.

7.3 Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?

There are no reported judgments in Pakistan on this issue, and it has not yet been addressed in legislation or academic literature. Considering the increasing pro-enforcement bias of the courts in Pakistan, the courts may consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement.

7.4 Would a court consider an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys authenticated by a third-party certificate) as an original for the purposes of recognition and enforcement?

There are no reported judgments in Pakistan specific to the admissibility of an electronically signed award as an original for the purposes of recognition and enforcement.

It is worth noting that the Electronic Transactions Ordinance 2002 ("ETO"), which governs the matters related to electronic signatures in Pakistan, recognises electronic signatures in the form of *"any letters, numbers symbols, images, characters or any combination thereof in electronic form, applied to, incorporated in or associated with an electronic document, with the intention of authenticating or approving the same, in order to establish authenticity or integrity or both"* (see Section 7 read with Section 2(1)(n) of the ETO). It also recognises

an electronic signature which is “*provided by an accredited certification service provider and accredited by the Certification Council as being capable of establishing authenticity and integrity of an electronic document*” (see Section 7 read with Section 2(1)(e)(ii) of the ETO). However, as mentioned above, there are no reported cases dealing with the extent to which an award that has been signed electronically, but an award signed in accordance with the ETO constitutes will constitute original for the purposes of recognition and enforcement based on the interpretation of the statutory framework.

8. Is there likely to be any significant reform of the arbitration law in the near future?

8.1 IAA amendments

The following significant reforms of the Arbitration Act are being considered at present:

- (a) In April 2023, the Chief Justice of Pakistan directed the formation of the Arbitration Law Review Committee (“**ALRC**”), which operated under the Law and Justice Commissions of Pakistan. The ALRC published the final draft of the Arbitration Bill 2024 (the “**Arbitration Bill**”) on 2 May 2024, which is broadly based on the UNCITRAL Model Law.

Through press release dated 11 June 2024, the Ministry of Information and Broadcasting announced that the Federal Cabinet has given its approval for the Arbitration Bill and consultation may be started with the provincial governments for enactment by the Parliament. The Arbitration Bill has not yet been passed as a law.

- (b) The Trade Dispute Resolution Act, 2022 was enacted by the Parliament on 11 August 2023 which relates to ‘Trade Disputes’. These are disputes or complaints concerning, relating to, or arising out of the international export and import of goods and services conducted wholly or partially in, or otherwise conducted with, the territory of Pakistan.

The Trade Dispute Resolution Act, 2022 established the Trade Dispute Resolution Commission empowered to hear trade disputes and to provide a regime for conducting arbitration under the Arbitration Act.

The Arbitration Act is widely viewed as outdated,⁴ and there have been legislative proposals to update Pakistan’s arbitration framework in accordance with international best practice.

9. Compatibility of the Delos Rules with local arbitration law

The Delos Rules of Arbitration largely govern the procedure of the arbitration proceedings. The Delos Rules are compatible with the local arbitration laws of Pakistan.

10. Further reading

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⁴ See, Faisal Naqvi, *Arbitration: a lost cause?*, The News (3 May 2017) available at: <https://www.thenews.com.pk/print/202077-Arbitration-a-lost-cause>.

ARBITRATION INFRASTRUCTURE AT THE JURISDICTION

Leading national, regional and international arbitral institutions based out of the jurisdiction, <i>i.e.</i> , with offices and a case team?	ϕ
Main arbitration hearing facilities for in-person hearings?	ϕ
Main reprographics facilities in reasonable proximity to the above main arbitration hearing facilities?	ϕ
Leading local providers of court reporting services, and regional or international providers with offices in the jurisdiction?	ϕ
Leading local interpreters for simultaneous interpretation between English and the local language, if it is not English?	Pakistan Translation and Research Center (PTRC) Avanti Pakistan Translation Services The Professionals Alliance Française de Karachi Green Gate Translations
Other leading arbitral bodies with offices in the jurisdiction?	The Center for International Investment and Commercial Arbitration (CIICA) Chartered Institute of Arbitration (CIArb), Pakistan Branch Musaliha International Center for Arbitration and Dispute Resolution (MICADR)