Karim Hafez



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English, French, Arabic

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Profile

Dr Hafez has acted in more than three hundred arbitrations under the auspices of all the major arbitral institutions — as arbitrator and presiding arbitrator, and earlier as counsel — across the three principal fields of arbitral practice: commercial, construction and investment. His practice is global; his working languages, Arabic, English and French.

The professional directories list him as a Thought Leader in International Arbitration and in Construction, and describe him as “a leading name in international disputes”; “an arbitrator ... of international standard”, whose “grasp of the law and strategies is second to none”; “brilliant ... very precise, knowledgeable”; “regularly appointed in major commercial and investment treaty arbitrations.”

Dr Hafez is a member of the arbitrator panels of most major arbitral institutions, including ICSID. He is also a member of the Court of the Saudi Center for Commercial Arbitration and past member of the LCIA Court, the Board of Trustees of DIAC and the Advisory Committee of the Cairo Regional Centre; he served on the IBA Task Force on Drafting International Arbitration Clauses and the Working

	Group that revised the UNCITRAL Arbitration Rules; he sits on the Editorial Board of *Global Arbitration Review*.
Academic	Educated at Cairo, Cambridge and Harvard, he holds an LLM (First Class) and a PhD from the University of Cambridge for a dissertation entitled "Complex Arbitration". He was elected to research fellowships at the Lauterpacht Research Centre for International Law, Cambridge, and at the International Legal Studies Program at Harvard Law School. He has taught international arbitration at the Graduate Institute of International and Development Studies, Geneva, and international investment law at the American University in Cairo.
Approach	Dr Hafez regards every arbitration as a project to be controlled: in its duration, its cost and its quality. As co-arbitrator, he endeavours to ensure that counsel on both sides are meaningfully consulted on the choice of the chair. He settles the procedure with counsel and fits it to the dispute: takes questions of jurisdiction and admissibility, applications for early dismissal and preliminary points of law at the outset where they may shorten the case; hears quantum separately where liability may dispose of it; holds one or more midstream conferences to keep the case on course; uses costs judiciously to incentivise efficient conduct; offers the parties virtual hearings to save cost and increase availability, including at short notice. At the hearing he takes an active part, with counsel, the witnesses and, above all, the experts, on the substance of their evidence. On every tribunal he works collegially: as chair, circulates drafts promptly; as co-arbitrator, takes the initiative, with detailed deliberation notes referenced to the record. Deliberation is fixed before the hearing closes; the award typically follows within three months of the final substantive submission. The award is the tribunal's own work, without recourse to tribunal secretaries; it engages closely, and with cultural literacy, with the arguments and the evidence, so that each party may see that its main points have received the care they deserve. The office of arbitrator carries an obvious element of public service: cases large and small are taken on alike and receive the same care and attention.

Experience

Dr Hafez has handled cases across a very wide range of industries; the highlights below, in alphabetical order, are drawn from those to which he has devoted his professional time; select any to go to it, and its name there to return to this list.

Aviation
Biosciences
Corporate & Commercial
Construction & Engineering
Energy
Environmental Services
Finance
Healthcare
Hospitality
Insurance & Reinsurance
Investment
Media
Mining & Metals
Real Estate
Shipping & Commodities
Sports
Technology
Telecom
Transportation & Logistics
Utilities & Infrastructure

Aviation

Dr Hafez's work in aviation extends to the design and construction of civilian airports and military air bases, aircraft finance and leasing, air navigation services and ground handling. As the holder of an FAA commercial pilot licence, he brings to aviation cases a precise command of technical standards, operational practice and airline economics. He has sat in several substantial airport cases, concerning airside infrastructure; terminals planned around minimum connecting times; baggage handling; security, civil defence and firefighting; cargo and maintenance facilities; and operational control centres. In aircraft finance and leasing, he has acted in contentious matters for lessors and operators: rent arrears and deferral; maintenance reserves; delivery and return conditions; and default and repossession under the Cape Town Convention. In air navigation services, his cases have concerned the communication, navigation, surveillance and air traffic management (CNS/ATM) and aeronautical meteorology systems on which those services rely: voice switching, radar, control automation, airspace management, approach and terminal control, and weather observation and forecasting. In ground handling, they have turned on the IATA Standard Ground Handling Agreement and its service level terms, network-wide ramp, passenger and cargo handling, and the grant, exclusivity and duration of airport handling concessions.

Biosciences

Dr Hafez has handled various disputes in the biosciences, from research collaborations through pharmaceutical licensing and co-commercialisation, joint ventures for biologics, medical devices and diagnostics, to contract manufacturing, quality and supply agreements for advanced therapies: the ownership of intellectual property generated in collaboration; diligence obligations and the

efforts standards that define them; milestone payments and royalties, and the effect on them of a failed trial or a delayed approval; exclusivity and non-compete covenants; and the reversion of rights on termination — questions on which the expert evidence has gone to regulatory pathways and to the valuation of pipeline assets.

Corporate & Commercial

Dr Hafez's commercial cases have arisen under distribution, franchise and licensing networks; his corporate cases trace the life of cross-border transactions: pre-contractual liability under letters of intent; material adverse change between signing and closing; the price under share and asset purchase agreements — locked-box mechanisms, completion accounts and their expert determination, earn-outs, escrow; warranties, indemnities and disclosure, and the warranty and indemnity insurance behind them; and the joint ventures and shareholder relationships the deal creates — pre-emption, drag-along and tag-along rights, non-compete and confidentiality covenants — and their breakdown in deadlock, put and call options and buy-outs, with the valuation of minority holdings and its discounts. Beyond standard valuation and accounting evidence, a significant number of cases have reached beyond contract to misrepresentation, fraud and conspiracy.

Construction & Engineering

Large, complex construction, engineering and infrastructure disputes occupy a significant portion of Dr Hafez's professional time. He has handled more than one hundred, across the range of built assets — airports (see Aviation above), seaports, railways, highways, bridges and tunnels; dams and thermal, nuclear and renewable power plants; oil and gas platforms, petrochemical complexes, smelters and pipelines; water and wastewater treatment; and hospitals, universities, high-rise and mixed-use developments — under every project delivery model, from bid-build, design-build, EPC and EPCM to public-private partnership, and under most bespoke and standard forms of contract, including the FIDIC, NEC, ICE, JCT, MF/1, IChemE and LOGIC forms. The claims — variations, extensions of time, delay and disruption, acceleration, defects, termination, calls on bonds and guarantees — many of them after the engineer's determination or a dispute board decision, have engaged delay and disruption analysis using the critical path method and system dynamics modelling.

Energy

Dr Hafez has been involved in numerous energy arbitrations throughout the Middle East and Africa. In oil and gas, they have run along the value chain: upstream, concessions and production-

sharing contracts, farm-ins and farm-outs, and joint operating agreements — cost recovery, sole risk and non-consent, default and forfeiture, operator liability, lifting imbalances, pre-emption and unitisation — with drilling, FPSO and offshore services and, at the end of field life, decommissioning; downstream of the wellhead, pipelines under host government and intergovernmental agreements, the transport of crude oil, gas and refined products, and long-term gas and LNG sales, with take-or-pay and price reopeners. In power, they have concerned power purchase agreements with independent conventional and renewable generators — grid interconnection, capacity payments, wheeling — and State measures in a privatised sector: stabilisation and change in law; regulatory intervention in tariffs, market access and subsidies; and the extension or termination of long-term concessions. The evidence has extended to reservoir analysis, production forecasting and grid capacity modelling; damages, to discounted cash flow and netback valuation.

Environmental Services

Dr Hafez has handled disputes over waste-recycling, resource-recovery and landfill projects — material recovery and mechanical biological treatment facilities, and the treatment of hazardous and medical waste, among them — from permitting through construction and commissioning to operation, under EPC, EPC with O&M, concession and PPP structures. The issues arising have typically reflected the sector's defining risk — feedstock that falls short, varies or arrives contaminated: environmental permits; delay, performance and acceptance guarantees; gate fees and minimum tonnage guarantees; underperformance; the offtake of recyclates and refuse-derived fuel; interface with waste-to-energy facilities; and the long-term allocation of operational and termination risk.

Finance

Dr Hafez has dealt with disputes over syndicated loans, project and acquisition finance, Islamic finance structures — murabaha, ijara, sukuk — as well as intercreditor and subordination arrangements, with the guarantees, letters of credit, on-demand instruments and ISDA derivatives that accompany them, on events of default, acceleration and the enforcement of security; and fund disputes under limited partnership agreements: the general partner's fiduciary duties; carried interest, distribution waterfalls and clawback; and the valuation of, and exits from, joint investment vehicles.

Healthcare

Dr Hafez has handled healthcare disputes under infrastructure PPPs, service concessions, hospital management agreements,

technology transfer arrangements and medical equipment supply contracts — structures that bind financing, service delivery and regulatory compliance into one contractual framework: performance obligations, key performance indicators and the payment deductions tied to them; and availability payments under hospital PPPs.

Hospitality

Dr Hafez has been involved in a number of arbitrations under hotel management agreements, franchises and concessions, which turn on the long-term balance between an owner who carries the capital, often highly leveraged, and an operator who controls the asset and the brand: key money and owner approval rights; brand standards, sales, marketing and group purchasing; FF&E reserves, maintenance and refurbishment; performance tests against RevPAR benchmarks; profit-sharing and royalties; the ownership of customer data; the owner's right to remove the operator, and the termination or extension of the management agreement; and on damages, lost revenue and brand devaluation.

Insurance & Reinsurance

Dr Hafez has handled insurance arbitrations in property, construction all-risks, energy, political risk, business interruption, liability, marine and financial lines and in takaful, and facultative as well as treaty reinsurance arbitrations: disclosure, misrepresentation and avoidance; the construction of wordings; claims cooperation and claims control clauses; the aggregation and allocation of losses; and subrogation.

Investment

Dr Hafez is regularly appointed, as presiding and as party-appointed arbitrator, in investor-State arbitration under the ICSID Convention as well as bilateral and multilateral investment treaties — the Investment Agreement of the Organisation of Islamic Cooperation among them — and under investment contracts and host State investment legislation; he has sat on ICSID ad hoc annulment committees. The cases have turned on the limits of the State's consent to arbitration, tested by objections of nationality, protected investment, denial of benefits and abuse of process; illegality and corruption in the making of the investment; the attribution of conduct to the State; the line between the legitimate exercise of regulatory and sovereign prerogatives and the conduct and decisions that impair an investment, measured against the substantive protections and procedural guarantees that international law affords investors; State counterclaims and parallel proceedings before domestic and international fora; and, on damages, valuation by discounted cash flow and asset-based methods.

Media	Dr Hafez's media cases have arisen under co-production, format and syndication agreements, content licensing and distribution, advertising and sponsorship, across terrestrial, satellite and cable broadcasting, streaming, mobile and cinema: cross-border financing; exclusivity, territorial carve-outs, release windows and holdbacks; minimum guarantees, revenue-sharing waterfalls and the audit of reported revenue; and the exploitation of intellectual property.
Mining & Metals	Dr Hafez has been engaged in various mining disputes under concessions, joint ventures and long-term off-take contracts: with the State, over royalties, production sharing and cost recovery, stabilisation, environmental and social obligations and the revocation or non-renewal of licences; between commercial parties, over royalty and streaming agreements, smelting and refining agreements and their treatment and refining charges, price re-openers for base and precious metals, and agency arrangements for the sale of enriched uranium to nuclear power producers — each turning on technical evidence of reserves and resources, of production forecasts and of the valuation of mining assets.
Real Estate	Dr Hafez has handled numerous arbitrations over large real estate developments under joint ventures, master development agreements, sale and purchase contracts and leasing structures: development finance; off-plan sales and their escrow regimes; the interface with construction; delayed handover and purchasers' claims; and master community obligations and the allocation of rights in multi-party schemes.
Shipping & Commodities	Dr Hafez has acted in many shipping and commodity arbitrations, on LMAA, GAFTA and FOSFA terms among others: shipbuilding contracts and their refund guarantees; ship sale and purchase; charterparties, bills of lading and contracts of affreightment, with cargo claims under the Hague-Visby Rules; and the sale of energy, metals and minerals and agricultural produce along string contracts and under documentary credits — quality and specification, laytime and demurrage, force majeure and sanctions — where carriage, sale and trade finance meet and technical evidence and market practice govern.
Sports	As an arbitrator of the Court of Arbitration for Sport, Dr Hafez has sat in commercial and governance disputes in international sport: broadcasting and sponsorship rights; event management; and the regulations of sports governing bodies.

Technology	Dr Hafez has handled numerous high-value technology and digital infrastructure disputes under software licensing and development agreements, joint ventures for fintech and e-commerce platforms, cloud services and data centre contracts and large-scale IT outsourcing: acceptance testing; service levels and service credits; failed platform migration; cybersecurity indemnities, data protection and the consequences of a breach; the ownership of co-developed intellectual property; caps on liability and exclusions of consequential loss; and exit and transition on termination.
Telecom	Dr Hafez has been involved in many large, technically complex telecommunications arbitrations in the Middle East and Africa — fixed-line, mobile, broadband, satellite and submarine cable — between incumbents, new entrants, equipment manufacturers and service providers, amid liberalisation and technological transition: licence fees and renewals; spectrum allocation and refarming; network roll-out and equipment supply; interconnection, access, roaming and settlement rates; network sharing, MVNO arrangements and joint ventures; capacity rights on submarine cable; convergence with broadcasting; tariffs, competition and universal service obligations; and regulatory measures affecting investment.
Transportation & Logistics	Dr Hafez's numerous transport and logistics cases — rail and port concessions, rolling-stock and signalling supply contracts, BOT and PPP schemes for airport and container terminals — have centred on the allocation of traffic and revenue risk: profit-sharing and minimum revenue guarantees; port tariff regulation; force majeure and frustration; and the termination of integrated logistics services agreements.
Utilities & Infrastructure	Dr Hafez's work has included many disputes over the regulated, capital-intensive infrastructure that delivers essential public services — independent water and power projects, reverse osmosis desalination and wastewater treatment; power generation, transmission and supply; waste-to-energy facilities — through development, financing, construction and operation: time and cost overruns and commissioning deficiencies; performance shortfalls; availability payments and revenue adjustment under off-take regimes; legislative and regulatory change, tariff resets included; the disruption of supply chains and of labour mobility; step-in under lenders' direct agreements; and the allocation of technical, financial and regulatory risk in project-financed concessions.