

# Litigation and Enforcement in the United Arab Emirates: Overview

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A Q&A guide to dispute resolution law in the United Arab Emirates.

The country-specific Q&A gives a structured overview of the key practical issues concerning dispute resolution in this jurisdiction, including court procedures; fees and funding; interim remedies (including attachment orders); disclosure; expert evidence; appeals; class actions; enforcement; cross-border issues; the use of ADR; and any reform proposals.

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## Main Dispute Resolution Methods

1. What are the main dispute resolution methods used to large commercial disputes?

Commercial disputes in the United Arab Emirates (UAE) are generally resolved through litigation or arbitration. Arbitration is a popular way to resolve disputes. The UAE is a signatory to the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention).

Conciliation and Mediation are less common, although there appears to be some momentum towards mediation, with the introduction of Federal Law No. 6 of 2021 on Mediation for the Settlement of Civil and Commercial Disputes, and a recent announcement that the UAE will accede to the Singapore Convention. In the Emirate of Dubai, a Centre for the Amicable Settlement of Disputes was established in 2009. Disputes of a certain nature (such as claims under AED500,000) must first be referred to the Centre to attempt settlement before litigation can commence. Disputing parties can also elect to approach the Centre before instituting court proceedings.

The UAE (save for courts established in financial free zones in Dubai and Abu Dhabi) has a civil law system, and an inquisitorial approach is taken by the bench. Litigation is entirely court-driven, and the courts have control over scheduling of hearings, appointment of experts and so on. The UAE courts do not adhere to the traditional common law standards of proof such as the "balance of probability" test in civil claims or the "beyond all reasonable doubt" test in criminal matters. The final decision in any case is at the discretion of the judge(s) hearing the case.

## General Overview and Court Structure

The UAE is a federation of seven Emirates. All member Emirates, except for Abu Dhabi, Dubai and Ras Al Khaimah, are part of a federal judicial system. Abu Dhabi, Dubai and Ras Al Khaimah have independent judicial systems. In every Emirate, the court system consists of the:

- Court of First Instance.
- Court of Appeal.
- Court of Cassation (however, Ras Al Khaimah does not have a Court of Cassation). In the federal judicial system, the final appeal is to the Union Supreme Court seated in Abu Dhabi.

## Legal System

The legal system in the UAE is based on the Constitution of the United Arab Emirates 1971 (Constitution). The federation has sovereignty in all matters assigned to it under the Constitution. The individual member Emirates have sovereignty over their own territories in all matters not in the exclusive jurisdiction of the federation, as set out in the Constitution.

In addition, each Emirate has a hereditary ruler who exercises considerable sovereignty over their own Emirate. The seven rulers, as members of the Supreme Council, collectively exercise sovereignty over the UAE.

The civil law system and the sharia are the main sources of legislation (Constitution).

## Civil Law System

The UAE (save for courts established in certain free zones) operates under a civil law system and statutes are the primary source of law. Judgments of the higher courts are not binding on the lower courts (although they can be a useful guide and often cited in support of a position). Each case is decided on its own merits and facts. In recent amendments to the UAE's Civil Procedure Law in 2021, conflict with "judicial principles" was identified as a ground on which a Court of Cassation judgment (which is ordinarily unappealable) can be appealed. In 2019, the UAE formed a High Judicial Commission to establish unifying precedents across the various judicial systems of the UAE. This is widely considered as a step towards recognition of judicial precedent in the UAE legal system.

All court proceedings are in Arabic. All non-Arabic documents filed in court by the litigants must be translated into Arabic by a translator licensed by the Ministry of Justice.

The judicial system (save for courts established in financial free zones in the Emirates of Dubai and Abu Dhabi) in the UAE is essentially inquisitorial in nature. In each case, the judge will investigate the facts (generally through a court appointed expert) and apply the law to the facts in reaching a judgment. There is no concept of a jury trial.

All proceedings in UAE civil matters are based on the written pleadings of the parties, supported by documentary evidence. In general, there is no oral hearing in civil cases. There is a widespread practice for both the federal and the Dubai Courts to refer matters to court-appointed experts for findings of fact in a variety of areas, including:

- Finance.
- Accounting.
- Banking.

- Other technical matters.

Experts' reports are not binding and can be challenged by the parties, but they are usually considered persuasive by the courts. In circumstances where the judge decides that they will not follow the expert report, the judge is required to specifically provide reasons for the decision. Oral evidence can only be given to establish a fact in a civil case with the permission of the court and the right to cross-examine witnesses is severely restricted.

## The Sharia

Broadly, the sharia is a body of religious, ethical and legal rules. The fundamental roots of Islamic sharia are:

- **The Koran.** This is a collection of divinely ordained rules.
- **The Sunna.** This consists of the precepts and sayings of the Prophet (*Hadith*), and an account of his actions.

Sharia is founded on familiar concepts of justice and equity, and the practical result in commercial matters is often the same as would be reached under Western law. For example, sharia strives to give effect to the intention of the parties in matters of contract. However, the parties' intention may be differently construed by jurists in the two systems. For example, one scholar has argued persuasively that in many cases traditional sharia would release the parties to a contract from performance for reasons of changed circumstances or frustration of purpose, where English law would bind the parties to their contract.

## The Dubai International Financial Centre (DIFC)

In addition to the civil law system and the sharia, the DIFC has its own body of laws, with an independent judicial authority and courts which deal with matters arising in the DIFC.

The DIFC has a common law judicial system, and proceedings are conducted in English.

Although the jurisdiction of the courts was initially limited to the geographical area of the DIFC, Dubai Law No. 16 of 2011 allows the DIFC Courts to hear local or international cases and to resolve commercial disputes with the consent of all parties. This chapter does not cover the DIFC Courts and procedures.

In some recent cases, the DIFC Courts had held that it has jurisdiction to recognise and enforce foreign arbitral awards under the New York Convention and domestic arbitral awards made within the Emirate of Dubai but outside the DIFC. The DIFC Court of Appeal also held that the DIFC Courts can enforce foreign money judgments in Dubai. However, this was called into question following the Dubai Court of First Instance's decision to nullify a DIFC court judgment on the basis that the DIFC Courts did not have jurisdiction to ratify a domestic arbitral award, as the subject of enforcement was not situated in, and did not have any connection with, the DIFC.

Due to the growing conflict of jurisdiction between the DIFC Courts and the Dubai Courts, by Decree No. 19 of 2016 the Ruler of Dubai established the Joint Judicial Tribunal (Judicial Tribunal) to resolve conflicts of jurisdiction which may arise between the Dubai Court and the DIFC Courts. Until very recently, the decisions of the Judicial Tribunal have favoured the view that the Dubai Courts have general or ordinary jurisdiction and that the DIFC Courts must only exercise this power in exceptional circumstances (as in the case where a defendant has assets within the DIFC).

In Cassation No. 8/2020 (Judicial Tribunal), the Judicial Tribunal confirmed the DIFC courts' jurisdiction to recognise and enforce foreign arbitral awards under the New York Convention in accordance with Federal Decree No. 43 of 2006, which

provides that any court in the UAE can carry out recognition and enforcement procedures, and that the DIFC courts fall within that jurisdiction. Neither party had nexus in the DIFC in this matter.

A DIFC court judgment can be enforced outside the DIFC through the onshore Dubai Courts, as provided for in Dubai Law No. 12 of 2004, if the subject matter of the execution is situated outside the DIFC.

## The Abu Dhabi Global Market (ADGM)

The ADGM is another financial free zone situated in Abu Dhabi which has its own body of laws, with an independent judicial authority and courts which deal with matters arising in the ADGM.

The foundation of the civil and commercial law in the ADGM is provided by the Application of English Law Regulations of 2015 which makes English common law (including the rules and principles of equity) directly applicable in the ADGM. In addition, a wide-ranging set of well-established English statutes on civil matters are also made applicable in the ADGM.

On 26 July 2017, the ADGM announced the establishment of its arbitration centre in Abu Dhabi in 2018. The ADGM has its own Arbitration Regulations in relation to arbitration seated in the ADGM, modelled under the UNCITRAL Model Law. In 2021, the International Court of Arbitration of the International Chamber of Commerce (ICC Court) opened a case management office for the ICC Court Secretariat located in the ADGM.

## Court Litigation

### Limitation Periods

2. What limitation periods apply to bringing a claim and what triggers a limitation period?

Federal Law No. 5 of 1985 regarding civil transactions (Civil Code) contains general rules relating to limitation periods. In general, a claim is time-barred after 15 years, unless a specific provision states otherwise. However, there are many exceptions to the general rule. Several statutes contain specific limitation periods for different types of dispute. In addition, there are several specific provisions dealing with time bars under Federal Law No. 18 of 1993 regarding commercial procedure (Commercial Code).

Subject to the exceptions, the limitation periods are generally:

- 15 years for contract disputes.
- Ten years for commercial contracts that are subject to the Commercial Code.
- Three years for disputes relating to cheques.
- Three years for insurance disputes.

- Three years for causing harm (tort).
- Ten years for building contracts (defects).
- One year for carriage of goods by sea.
- One year for employment-related disputes.

There is no single rule as to what triggers a limitation period. In some instances (such as claims under a bill of lading), the limitation period is triggered by the cause of action. In other instances (such as employment matters and charterparties), the limitation period commences from the end or termination of the relevant contract.

## Court Structure

3. In which court are large commercial disputes usually brought? Are certain types of disputes allocated to particular divisions of this court?

There are no specialist courts. All civil, commercial and maritime cases are heard by the civil courts, usually consisting of:

- Three judges in the Court of First Instance.
- Three judges in the Court of Appeal.
- Five judges in the Court of Cassation.

These judges may not have specialist knowledge of commercial matters.

However, commercial disputes must first be referred to a Reconciliation and Settlement Committee (Committee), appointed by the Ministry of Justice (Federal Law No. 26 of 1999 regarding establishing reconciliation committees in the Federal Courts). The Committee facilitates settlement and usually hears parties in person.

If a claim cannot be settled, the claimant can file a claim in the Court of First Instance. If the parties reach a settlement, they record and sign its terms. This agreement is binding and enforceable.

This procedure does not apply in Abu Dhabi, Dubai or Ras Al Khaimah.

Under Dubai Law No. 18 of 2021, a Centre for Amicable Settlement of Disputes (Centre) was established in Dubai. The Centre can hear, among others:

- Disputes determined in a decision of the President of the Court, regardless of the nature and value of the dispute.
- Disputes regarding division of joint funds.

- Except for substantive disputes involving financial facilities, disputes relating to debts up to a maximum value of AED500,000.
- Disputes where the parties have agreed to refer the matter to the Centre, regardless of the value of the dispute.
- Lawsuits where the court decides to refer the matter to the Centre, on agreement of the litigants.

These disputes must be referred to the Centre before the parties can file for proceedings before the Dubai Courts. The courts have the discretion to refer ongoing proceedings to the Centre, subject to the agreement of the parties. Limitation periods are suspended while the matter is before the Centre, and resume when the Conciliation proceedings are concluded or when the matter is referred by the litigants to the court.

The following disputes cannot be referred to the Centre:

- Disputes that do not fall within the jurisdiction of the court.
- Labour disputes.
- Disputes in which the government is a party.
- Interim orders and applications.
- Summary proceedings.
- Disputes relating to personal status and family affairs.

Disputes involving banks once had to be mandatorily referred to the Centre, but this is no longer the case.

Rental disputes in Dubai that relate to lease agreements with a term of less than ten years must be first referred to the Dubai Rental Disputes Centre.

## Rights of Audience

4. Which types of lawyers have rights of audience to conduct cases in courts where large commercial disputes are usually brought? What requirements must they meet? Can foreign lawyers conduct cases in these courts?

## Rights of Audience/Requirements

Only Arab advocates (that is, UAE national lawyers and lawyers from certain other Arab countries who must satisfy specified criteria before a licence is issued) have rights of audience in the UAE. A party can represent itself in court.

In general, there is no oral hearing in civil cases (see [Question 18](#)). The case is conducted using written memoranda and documentary evidence, and the matter is often referred to an expert registered with the court (see [Question 19](#)). Oral evidence

can only be given to establish a fact in a civil case with the permission of the court and the right to cross-examine witnesses is severely restricted (see [Question 18](#)).

## Foreign Lawyers

Legal consultants are usually international law firms and foreign lawyers licensed to advise on UAE law, but are not permitted to appear in court. However, some foreign legal consultants are actively involved in litigation and often prepare all the submissions to be filed in court. Depending on the amount of assistance provided by legal consultants, advocates' fees may be considerably reduced.

## Fees and Funding

5. What legal fee structures can be used? Are fees fixed by law?

Fees are not fixed by law. Lawyers usually charge a fee which is calculated as a percentage of the amount of the claim. For example, the fee charged for acting in the Court of First Instance does not usually exceed 10% of the claim amount (although there is no cap on the amount that can be charged). The percentage rate typically charged depends on the following factors:

- The amount of the claim.
- The complexity of the matter.
- Whether the services of legal consultants are used (see [Question 4, Foreign Lawyers](#)).

Additional fees are usually charged for acting in the:

- Court of Appeal (usually an additional 50% of the fee charged for acting in the Court of First Instance).
- Court of Cassation (usually an additional 25% of the fee charged for acting in the Court of First Instance).

Additional fees are usually charged for acting in relation to a counterclaim or if an application for provisional relief is filed.

Lawyers sometimes agree to bill based on hourly rates. The law does not permit contingency fee arrangements.

6. How is litigation usually funded? Can third parties fund it? Is insurance available for litigation costs?

## Funding

Commercial litigation is usually funded by the client personally. There is no prohibition on third-party funding, and third-party funding has recently generated a lot of interest following guidelines issued by the DIFC and ADGM Courts.

## Insurance

The practice of obtaining insurance to cover legal costs is not generally common or required. Insurance is often not cost-effective.

## Court Proceedings

### Confidentiality

7. Are court proceedings confidential or public? If public, are the proceedings or any information kept confidential in certain circumstances?

Hearings are generally held in public (for exceptions to this rule, see [Question 9](#)). However, there are usually few or no oral hearings (see [Question 4](#)). The public cannot inspect the court file (which contains a record of the proceedings, including pleadings, evidence, court orders, and so on). Only the parties to the litigation and their lawyers have access to these records. Therefore, although all proceedings are in theory public, they remain virtually confidential in practice. There is also provision to exclude the public from the hearing, but only in exceptional circumstances.

### Pre-Action Conduct

8. Does the court impose any rules on the parties in relation to pre-action conduct? If yes, are there penalties for failing to comply?

The Civil Procedure Code does not contain any provisions relating to pre-action conduct. However, in certain Emirates, commercial disputes must be referred to a Committee before a claim can be filed (see [Question 3](#)).

## Main Stages



9. What are the main stages of typical court proceedings?

## Starting Proceedings

Proceedings are started by filing a claim (or a plaint as it is sometimes known as in the UAE) in the relevant court office on payment of the required court fee. On application by the claimant, payment of court fees can be deferred in exceptional cases (for example, where the claimant is an accident victim).

The court fee depends on the value of the claim, and has a maximum cap. Generally, the court fee is:

- In Dubai: 6% of the claim value, subject to a maximum of:
  - AED20,000, if the claim value is less than AED500,000;
  - AED30,000, if the claim value is between AED500,000 and AED1 million;
  - AED40,000, if the claim value is more than AED1 million.

If provisional orders are sought, a further fee of 50% of the initial filing fee is payable, subject to a maximum of:

- AED10,000, if the claim value is less than AED500,000;
  - AED15,000, if the claim value is between AED500,000 and AED1 million;
  - AED20,000, if the claim value is more than AED1 million.
- In the federal courts:
    - for claims below AED10 million, the court fee is 4% of the value of claim;
    - for claims worth over AED10 million, the court fee is 4% for the first AED100,000 and 5% of the amount over AED100,000 (up to a maximum of AED30,000).

This fee is payable either on an application for provisional relief, or on filing the substantive suit.

- In Abu Dhabi: the court fee for civil or commercial claims is 5% of the claim value (up to a maximum of AED40,000).
- In Ras al Khaimah: the court fee for civil or commercial claims:
  - below AED1 million is 10% of the value of the claim value (up to a maximum amount of AED30,000);
  - exceeding AED1 million is 10% if the claimant is a corporate entity, and 5% if the claimant is an individual. This fee is uncapped.

The claim must:

- Meet procedural requirements.
- Include the names and addresses of the parties to the action. Recently, the practice of the court is to also require email addresses for all the parties.
- Include details of the claim.

The court issues a summons with a hearing date endorsed on it for service on the defendant, with a copy of the claim and any supporting documents filed by the claimant. Documents in support of the claim are usually annexed to the claim and must be translated into Arabic.

The lawyers acting for the parties must be authorised by a duly executed power of attorney:

- If executed in the UAE, the power of attorney must be signed before a public notary.
- If executed overseas, the power of attorney must be duly notarised and authenticated up to the level of the UAE embassy or consulate in the country in which the power of attorney is executed. The power of attorney must then be duly authenticated by the UAE Ministry of Foreign Affairs and translated into Arabic by a translator licensed by the UAE Ministry of Justice.

## Notice to the Defendant and Defence

Notice to the defendant can be served by the court by email, by courier or through a court officer. Service may also be affected by the claimant with the approval of the court. The court officer requires the defendant (or an employee if the defendant is a corporate entity) to sign a copy of the summons acknowledging receipt. If the court officer is unable to serve the defendant before the allocated hearing date, the court adjourns the case for another date. If personal service is not possible, provision is made for service by affixation and thereafter by publication.

If the proceedings are to be served on a defendant abroad, the summons is served through diplomatic channels or by email, with the permission of the court. When summons is served through diplomatic channels, the court forwards the documents, through the UAE Ministry of Justice and the UAE Ministry of Foreign Affairs, to the UAE embassy in the country where the defendant is resident. The papers are then served on the defendant under the law and procedures of the country in which the defendant is resident. This procedure can be time consuming. The UAE court requires proof of service before proceeding with the case.

The defendant is generally represented by lawyers duly authorised by a power of attorney (see above, *Starting Proceedings*). If there is insufficient time for a power of attorney to be executed and filed, the lawyers can request an adjournment (which is usually granted) to file the power of attorney and the defendant's answer (that is, a response to the claim).

## Subsequent Stages

Once an answer has been filed, the trial is adjourned for the claimant to respond. Pleadings are now generally filed before the Case Management Office (CMO), where parties are generally given seven to ten days to respond to each other's pleadings. Once the court believes that the case has been sufficiently pleaded, it reserves the matter for judgment. The entire proceeding is based on written submissions supported by documentary evidence. The court (and, on occasion, the CMO) usually appoints an expert to assist it and usually accepts the expert's report (see *Question 19*).

Proceedings in the UAE courts are court-driven and the parties have little, if any, control over the pace at which the matter proceeds.

## Interim Remedies

10. What steps can a party take for a case to be dismissed before a full trial? On what grounds can such applications be brought? What is the applicable procedure?

The Civil Procedure Code provides for a summary judgment procedure (also termed a Payment Order) where all of the following apply:

- A creditor's entitlement to payment is urgent and confirmed electronically or in writing.
- The claim is for a specified amount or a movable of a specified type and amount.

A demand for payment must be made to the defendant at least five days before submitting an application for summary judgment. The application is then made in duplicate to the court, together with the supporting commercial documents. The amount claimed must be the same as set out in the demand for payment.

If the court gives summary judgment in favour of one of the parties, it endorses its order on one of the copies of the application for summary judgment. This is served on the defendant, who has 15 days to apply to have it set aside, if the value is less than AED50,000, setting out the relevant grounds. If the claim value is more than AED50,000, the defendant has 30 days to file an appeal, setting out detailed grounds for appeal. Once the application to set aside is made, there is a full trial on the matter. All arguments are pleaded and the Court of First Instance adjudicates on all defences, including preliminary defences (such as jurisdiction, time-bar, and so on) in its final judgment.

A recent amendment to the Civil Procedure Code provided that civil, commercial and labour claims of not more than AED500,000 in value and claims challenging the validity of signatures must be heard by the minor circuit of the court and disposed of in one hearing. This hearing must be fixed by the CMO within 15 days of the case being registered. A further 15-day extension can be granted by the supervisory judge of the CMO, but no further extensions are permitted. If the court appoints an expert, a hearing must be fixed within three days of receiving the expert's report.

Except where the conditions set out above apply, there is no other provision for summary judgment. Injunctive relief and interim remedies are not generally available (see [Question 12](#)).

11. Can a defendant apply for an order for the claimant to provide security for its costs? If yes, on what grounds?

There is no provision requiring a party to provide security for costs and the courts do not make orders for security for costs. In any event, when giving judgment in a matter, the court generally awards only token amounts in legal fees (see [Question 22](#)). Therefore, the successful party cannot recover a major portion of the costs incurred in litigation.

12. What are the rules concerning interim injunctions granted before a full trial?

## Availability and Grounds

Injunctive relief and interim remedies are not generally available, apart from:

- Summary judgment (see [Question 10](#)).
- Interim attachment orders (see [Question 13](#)).
- In certain specific situations (see [Question 14](#)).

## Standard of Proof

There is no specific standard of proof that must be met to successfully apply for injunctive relief. The decision to award interim relief is at the discretion of the court hearing the application.

## Prior Notice/Same-Day

Applications for interim relief are made *ex parte*. The application is first filed before the CMO and can take up to five days to register, after which, the matter will be referred to a judge.

## Prohibitory and Mandatory Injunctions

Mandatory injunctions are not available in the UAE.

## Right to Vary or Discharge Order and Appeals

Interim *ex parte* orders may be sought to be set aside by filing a petition. There is no set time limit to file a petition and petitions are heard *inter partes*. A party seeking to appeal a decision on a petition can do so within ten days from the date of the decision. After that, the decision can be appealed to:

- Where the value of the claim is less than AED50,000, the Court of First Instance, within 15 days of the date of service of the decision.
- The Court of Appeal, within 30 days from the date of the service of the decision of the Court of First Instance.

- The Court of Cassation, on a question of law (if the value of the dispute exceeds AED500,000) within 60 days of the Court of Appeal's decision. If the Court of Appeal's decision was *ex parte*, the appeal must be filed within 60 days from service of the Court of Appeal's decision.

Where interim orders are obtained under the Civil Procedure Law, the claimant must file a substantive suit on the merits within eight days of the interim order being granted. The defendant would ordinarily include a request that the interim order be vacated. The judgment of the court is appealable in the ordinary way.

13. What are the rules relating to interim attachment orders to preserve assets pending judgment or a final order (or equivalent)?

## Availability and Grounds

The courts can make provisional orders, including provisional attachment of assets to secure a claimant's claim (attachment orders). The court must be satisfied that there is both a:

- *Prima facie* case against the defendant for an ascertained sum.
- Risk that if the order is not granted the claimant may not be able to enforce any judgment subsequently obtained.

The application for an attachment order must be supported by documentary evidence and specify the assets sought to be attached. The court does not usually grant a general attachment order over unspecified assets. Federal Law No. 11 of 1992 (amended by Federal Law No. 10 of 2014), as amended (see [Question 9](#)) provides that in cases where movables are to be seized, the person applying for the attachment order must provide a comprehensive description of the items they wish to seize as part of the attachment order. However, as a matter of practice, on the request of a claimant, the court at its discretion, can request the Land Department or the UAE Central Bank to provide information on a defendant's assets.

Attachment orders are awarded at the judge's discretion and the claimant must prove the need for attachment. Evidence must be provided establishing that there is an imminent danger of assets being removed in a way that would negate the effect of any judgment subsequently obtained.

If an attachment order is granted, a substantive claim must be instituted within eight days of the order, unless the attachment is granted under the UAE Arbitration Law. If the attachment order secures claims made in foreign proceedings or a foreign arbitration, the substantive claim usually includes evidence of such proceedings and seeks only an order validating the attachment and does not seek a judgment on the merits.

## Standard of Proof

There is no specific standard of proof that must be met. The decision is at the discretion of the court hearing the application.

## Prior Notice/Same-Day

Urgent relief applications (other than for the appointment of an expert to examine evidence that may be lost) are made *ex parte*. The application is first filed before the CMO and can take up to five days to register, after which the matter will be referred to a judge.

## Main Proceedings

The main proceedings need not be in the same jurisdiction. In circumstances where the defendant is in, or has any assets in, the UAE, an application can be made requesting summary and provisional relief (such as an attachment order) in circumstances where UAE courts do not have jurisdiction in the substantive dispute. Evidence that the substantive dispute has been filed in the relevant jurisdiction must be provided to court within eight days of the court granting the attachment.

## Preferential Right or Lien

Attachment does not create preferential rights or liens over the attached asset in favour of the claimant.

## Damages as a Result

The claimant is liable for damages if the order was obtained maliciously or with the intention of causing harm or damage to the defendant. However, the mere fact that an attachment order is subsequently vacated does not automatically make the claimant liable for damages. To succeed, it must be established that the claimant acted in bad faith, which is ordinarily a difficult requirement to satisfy. Therefore, even in a case of wrongful seizure of an asset, the aggrieved party is usually not able to recover compensation, as bad faith is difficult to establish. However, there has been a recent decision of the Dubai Court in which damages were awarded for the wrongful arrest of a vessel under the Federal Maritime Law.

## Security

The court can, at its discretion, require the applicant to produce a bank guarantee, a letter of indemnity or other counter-security, before it makes an attachment order.

14. Are any other interim remedies commonly available and obtained?

In limited circumstances where there is a serious risk of the defendant leaving the country, the court can, on the claimant's application, make either or both of the following orders:

- An order prohibiting the defendant from leaving the country.
- An order requiring the defendant to surrender their passport. If the defendant fails to comply, the court can order that the defendant provides a guarantee to secure the claim and, that the defendant be detained in custody in the event of failure to comply.

The above orders can only be granted on the grounds that:

- The debt owed must be for a specified amount (for example, a claim for damages will not qualify), which is unconditional and at least AED10,000.
- There must be "serious reasons" to believe that the debtor is a flight risk.
- The claim for payment must be supported by documentary evidence.
- The applicant must submit a guarantee to the court to cover losses or damages the debtor may suffer if the application for a travel ban is later found to be wrongful.

The courts can also make urgent orders in certain circumstances. For example, if there is a risk that evidence may be destroyed, lost or removed from the jurisdiction, the court can appoint an expert to examine the subject matter and prepare a report. An application for this is made on notice to the respondent.

## Final Remedies

15. What remedies are available at the full trial stage? Are damages only compensatory or can they also be punitive?

The main remedy available in commercial disputes as a matter of practice is compensatory damages. The courts can also make an order confirming a right (for example, they can order the return of property). There is no specific standard of proof that must be met to make a successful claim for damages. The decision to award damages is at the discretion of the court hearing the case.

If an attachment order has been granted earlier in the proceedings, the court in its final judgment makes an order confirming or discharging the attachment order.

The courts do not generally make orders for declaratory relief (for example, a declaration of status or a declaration that a person is entitled to a particular right) or grant relief in the form of permanent injunctions.

In contracts for the sale of immovable property in Dubai, specific performance to compel the sale is not available.

## Evidence

### Document Disclosure

16. What documents must the parties disclose to the other parties and/or the court? Are there any detailed rules governing this procedure?

There is no process of discovery and inspection of documents. Each party files the documents that it wishes to rely on for its case. There is no obligation on a party to file a document that is damaging to its case. In practice, there is extremely limited discovery available.

A party to litigation can request the court to compel their opponent to submit any useful written document or paper in their possession, in the following limited instances:

- If the law allows the party to ask for their submission or delivery.
- If the document is joint between the party and their opponent.
- If the opponent based their claim on it in any stage of the lawsuit.
- In circumstances where the court orders disclosure, such documents can be provided in electronic form.

Any expert appointed by the court (see [Question 19](#)) can also request copies of documents, but cannot compel a party to produce a document (Law of Evidence). A party must present the evidence on which it relies on in support of its claims/defence. However, there is no obligation to disclose documents that are relevant or helpful to the other party. No time limits apply.

## Privileged Documents

17. Are any documents or communications privileged? If privilege is not recognised, are there any other rules allowing a party not to disclose a document?

## Privileged Documents

Communications between a UAE advocate and client are privileged. The concept of privilege does not extend to legal consultants (that is, foreign lawyers), who can be called on to disclose information by an order of the court. Internal communication between a party and its internal legal advisers is not treated as a privileged communication, on account that such an internal legal adviser is considered an employee of a party. In any event, disclosure obligations are very limited (see [Question 16](#)).

The concept of "without prejudice" correspondence is not recognised. Any correspondence marked "without prejudice" and brought into existence expressly for the purpose of furthering genuine settlement negotiations can be filed in court and relied on. Any admissions or offers made in this correspondence may be prejudicial to the party making the admissions or offers. Therefore, settlement negotiations are not usually documented.



## Other Non-Disclosure Situations

Lawyers must not disclose information provided by the client without the client's permission. The Federal Law on the Regulation of the Legal Profession precludes a lawyer from divulging a secret or testifying on facts or information that came to the lawyer's knowledge through their professional interactions with their client, unless the disclosure of such information prevents the perpetration of a crime.

## Witnesses

18. Do witnesses of fact give oral evidence or do they only submit written evidence? Is there a right to cross-examine witnesses of fact?

## Probatory Value of Different Types of Evidence

Civil matters are based on written submissions supported by documentary evidence. The court does not ordinarily hear oral arguments from the parties' lawyers. The case is determined on the basis of the written submissions and documentary evidence.

Although a witness statement can be filed in court, it has very little evidentiary value and is almost invariably challenged.

## Right to Cross-Examine

Oral evidence is not usually allowed. If a party wishes to call a witness, an application must be made to the court, but these applications are rare. If an application is granted, the witness can be cross-examined. However, the judge closely supervises the testimony of the witness, questions the witness and controls both examination and cross-examination.

## Third Party Experts

19. What are the rules in relation to third party experts?

## Appointment Procedure

Dubai Law No. 13 of 2020 concerning Expert Evidence before the courts (where proceedings are conducted in Dubai) and the Law of Evidence govern the appointment of experts. The court can appoint an expert at any stage to investigate any matters in which the court considers it requires assistance. The court usually appoints an expert for findings of fact on a variety of issues including financial, accounting or other technical matters.

The expert is selected from a list of experts maintained by the court. It is difficult for the parties to reach agreement on the appointment of an expert, as any name that is suggested by one party is invariably treated with suspicion by the other party. If the parties fail to agree, the court generally orders that an expert be appointed from the court's list and the parties do not typically have control over who is appointed.

## Role of Experts

The expert must comply with certain procedures set out in the federal laws (see above, *Appointment procedure*). These include holding meetings with the parties and their lawyers, and keeping minutes of these meetings.

Once the expert has prepared and filed their report in court, a date is fixed for the parties to comment on the report. The expert's report does not bind the judge. However, the court usually adopts the expert's findings. If a court disagrees with the conclusions of an expert, it is required to provide reasons. The expert provides an independent report to the court and does not represent the interests of any party.

## Cross-Examination of Experts

As there are no oral hearings, the expert is not questioned by either party or the court. However, once the expert has filed the report, the parties are given an opportunity to comment on the report. This is done by written submissions. If the court considers that the matter requires further investigation, it can refer the matter back to the expert, sometimes with specific directions to examine certain issues. The court can also order that another expert be appointed to prepare a report, if this is deemed necessary.

## Fees

When making the order for the appointment of an expert, the court also orders one or both of the parties to pay an amount into court for the expert's fees. In the absence of a counterclaim by the defendant, the claimant is usually ordered to make the payment. The court can order further payments. The final judgment of the court contains a determination as to which party must pay the expert's fees.

## Appeals

20. What are the rules concerning appeals of first instance judgments in large commercial disputes?

## Appellate Courts

An unsuccessful party has the right to appeal from the Court of First Instance to the Court of Appeal. No permission to appeal is required.

## Grounds for Appeal

It is possible to appeal in relation to findings of both fact and law. The Court of Appeal hears the dispute afresh and the parties can file further submissions and evidence.

### **Time Limit**

The appeal to the Court of Appeal must be filed within 30 days of the date on which the Court of First Instance delivers its judgment. Although the law provides that this time limit can be extended in limited circumstances, and at the discretion of the court, in practice an appeal is usually dismissed if not filed within the statutory timeframe. The appellant files the grounds for appeal, together with any further evidence that it wishes to rely on. A hearing date is allocated for the respondent to file submissions in answer. Further hearing dates can be fixed by the court for exchange of further submissions. When the Court of Appeal considers that the matter has been sufficiently pleaded, it reserves the matter for judgment.

There is a right of further appeal to the Court of Cassation on a point of law, subject to certain monetary limits (among other things). The time limit for filing the appeal is 60 days from the date that judgment is delivered by the Court of Appeal. This time limit can be extended in limited circumstances.

The Court of Cassation can either give final judgment in the matter or remit the matter back to the Court of Appeal for further findings. If the case is remitted back to the Court of Appeal, there will be further hearings in the Court of Appeal and the parties again have a right to appeal to the Court of Cassation on a point of law.

### **Class Actions**

21. Are there any mechanisms available for collective redress or class actions?

The UAE courts do not have a mechanism for class or collective actions. Each claim must be filed separately.

Recently, Federal Decree-Law No. 33/2021 on Regulation of Labour Relations introduced a mechanism for filing collective labour disputes. In circumstances where at least 100 employees have a dispute with the employer, it is registered as a collective labour dispute.

### **Costs**

22. Does the unsuccessful party have to pay the successful party's costs and how does the court usually calculate any costs award? What factors does the court consider when awarding costs?

Costs in the UAE consist of legal fees and court fees. The courts generally only award nominal or token amounts in legal fees. These rarely exceed AED2,000, regardless of the fees actually incurred. However, the winning party can recover the court fees and the expert's fees (if any) (see *Question 9, Starting proceedings*). The court does not have a role in managing and/or controlling costs.

23. Is interest awarded on costs? If yes, how is it calculated?

Interest is not awarded on costs.

## Enforcement of a Local Judgment

24. What are the procedures to enforce a domestic judgment in the local courts?

Once a final judgment is obtained, the judgment creditor is required to commence execution proceedings in the execution department of the courts of the relevant Emirate. On execution proceedings being filed, the judgment debtor receives notice providing two weeks to settle the debt or object to the execution. If the judgment debt is not settled in the two weeks, execution procedures will commence.

The main ways to enforce a local judgment are through:

- Attachment and sale of the debtor's property (movables).
- Attachment of stocks, bonds and shares.
- Attachment and sale of real estate.
- Bankruptcy proceedings (this was unusual, but with the adoption of a new Bankruptcy Law, there may be more bankruptcy proceedings being filed).
- In exceptional circumstances, imprisonment of the defaulting debtor.

## Cross-Border Litigation

25. Do local courts respect the choice of governing law in a contract? If so, are there any national laws or rules that may modify or restrict the application of the law chosen by the parties in their contract? What are the rules for determining what law will apply in the absence of any agreement and/or to non-contractual claims?

## **Contractual Choice of Law**

Although UAE law recognises the principle of freedom of contract, foreign jurisdiction clauses are ignored by UAE courts, as UAE courts will assume jurisdiction as a matter of public policy if the UAE courts have jurisdiction as a matter of UAE law. This is the case in the following circumstances:

- Any one or more of the defendants resides in the UAE.
- The subject matter of the dispute is within the UAE.
- Any part of the contract was executed or performed in the UAE.

In theory, an express foreign choice of law clause in a contract should be recognised by the UAE courts. However, in practice, the courts usually apply UAE law.

If a UAE court decides to apply foreign law in a particular case, that law must be proved to the court as an issue of fact. However, even if this is carried out, the foreign law may be ignored in practice. Further, even if a foreign law is applied, there is no assurance that a court will interpret it in a manner that is consistent with its application in the jurisdiction of origin.

There are certain areas of commercial dealing in which the courts do not uphold a foreign choice of law, including:

- Commercial agency or distributorship.
- Real property.
- Employment.
- Government contracts.
- Certain situations where goods have been carried by sea.
- Some insurance contracts.

## **No Choice of Law and Non-Contractual Claims**

UAE courts will apply UAE law for all non-contractual claims and for contractual claims with no choice of law.

## **Contractual Choice of Forum**

26. Do local courts respect the choice of jurisdiction in a contract? Do local courts claim jurisdiction over a dispute in some circumstances, despite the choice of jurisdiction?

The UAE courts have jurisdiction to hear actions filed against both:

- UAE nationals.
- Foreign persons having a domicile or a place of residence in the UAE.

In certain circumstances, the UAE courts also have jurisdiction over actions against foreign persons who have no domicile or place of residence in the UAE (Civil Procedure Code). If the UAE courts consider that they have jurisdiction, they ignore a choice of jurisdiction clause.

The position is different if the contract provides for disputes to be referred to arbitration or if the DIFC courts or the ADGM courts have jurisdiction over the dispute. The UAE courts recognise these types of clauses and a court will decline to hear a civil claim filed for a contract containing an arbitration clause, if the defendant relies on the arbitration clause before submitting any request or plea on the merits (Federal Law No. 6 of 2018 on Arbitration).

The courts also ignore a choice of jurisdiction clause in certain types of commercial matters, including commercial agency or distributorship, real property, employment and government contracts.

As a matter of practice, except for where the DIFC courts or the ADGM courts have jurisdiction over a dispute or if the contract provides for disputes to be referred to arbitration, courts will assume jurisdiction.

## Service of Foreign Proceedings

27. If a party wishes to serve foreign proceedings on a party in your jurisdiction, what is the procedure to effect service in your jurisdiction? Is your jurisdiction a party to any international agreements affecting this process?

The Civil Procedure Code does not expressly address the question of service of foreign legal proceedings in the UAE. If the UAE is not a party to any bilateral or international treaties providing for a different process, the only recognised method of service of foreign legal proceedings is service by the court bailiff in the manner set out for service of domestic UAE proceedings (see *Question 9, Notice to the Defendant and Defence*). However, the parties can agree on a different mode of service (Federal Law No. 11 of 1992, as amended by Federal Law No. 10 of 2014).

The UAE is not a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965. It has, however, signed bilateral treaties with various countries for judicial co-operation.

The UAE is also a signatory to the Riyadh Arab Agreement for Judicial Co-operation 1983 (Riyadh Convention), to which several Arab countries have acceded. The courts give effect to any provisions contained in bilateral treaties or in the Riyadh Convention with regard to service of legal process.

### **Taking of Evidence for a Foreign Court Proceeding**

28. What is the procedure to take evidence from a witness in your jurisdiction for use in proceedings in another jurisdiction? Is your jurisdiction party to an international convention on this issue?

The Civil Procedure Code does not contain any provisions for the taking of witness evidence for use in proceedings in another jurisdiction. The Riyadh Convention has provisions relating to, among other things, the taking of evidence from witnesses for use in judicial proceedings in member states. The courts also give effect to the provisions of judicial co-operation treaties in relation to the taking of evidence.

### **Enforcement of a Foreign Judgment**

29. How are foreign judgments enforced in your jurisdiction?

The UAE has treaties with various countries for judicial co-operation and the recognition of judgments and arbitral awards. The UAE is also a signatory to the Riyadh Convention. The Riyadh Convention has provisions relating to, among other things, the recognition and enforcement of judgments rendered in member states.

In relation to a judgment from a Riyadh Convention member state or a state with which the UAE has a treaty, the jurisdiction of the court of origin is generally not reviewed (subject to particular exceptions that may be provided in the relevant treaty).

The party seeking enforcement must apply to register the judgment by producing a duly certified and legalised copy of the judgment, together with proof that it is enforceable under the law of the country of origin. The application is made before the Execution Court and the court is required to issue its decision (*ex parte*) within three days from the date the application is made. The order of the execution judge can be appealed to the Court of Appeal within 30 days.

In relation to judgments from countries with which the UAE does not have a bilateral treaty, the provisions of the Civil Procedure Code, as amended, must be satisfied. The primary test is whether reciprocal arrangements for the enforcement of judgments exist between the UAE and the country in which the judgment is given. There are further conditions that must be complied with, including the following:

- The UAE courts must not have jurisdiction over the substantive dispute in relation to which the foreign judgment was obtained.
- The judgment must have been issued by a competent court under the law of that country.
- The defendant must have been summoned and represented in the foreign proceedings.
- The judgment must be final and binding, and has the force of *res judicata* under the law of the country in which the judgment was given.
- The judgment must not be inconsistent with a judgment or order already issued by a court in the UAE, and not contrary to UAE principles of morality and public order.

The requirement that the UAE courts must not have jurisdiction over the substantive dispute may cause difficulties when enforcing a judgment against a defendant resident or domiciled in the UAE, as the UAE courts have jurisdiction in relation to such a defendant (see [Question 26](#)). If the requirements of the Civil Procedure Code discussed above cannot be satisfied, a civil claim must be filed in the relevant UAE court and the foreign judgment can be filed in evidence. The court will, however, examine the merits of the case.

In some recent cases, the DIFC courts have been used as a conduit jurisdiction to enforce foreign court judgments in Dubai. The DIFC Court of First Instance has jurisdiction to ratify any judgment or order from a recognised foreign court (Article 24, DIFC Courts Law No. 10 of 2004). However, the judgment or order can only be enforced within the geographical limits of the DIFC and, therefore, the subject matter of execution must be within, or have assets in, the DIFC.

In principle, a DIFC court judgment can be enforced outside the DIFC through the onshore Dubai courts if the subject matter of execution is situated outside the DIFC (Dubai Law No. 12 of 2004).

In *DNB Bank ASA v (1) Gulf Eyadah Corporation (2) Gulf Navigation Holdings PJSC CA 007/2015*, the DIFC Court of First Instance ratified an English court judgment, despite the fact that there was no treaty between the UK and the UAE and the subject of enforcement was not situated in and had no connection with, the DIFC. The DIFC Court of Appeal held that a foreign judgment becomes an "independent local judgment" when it is recognised by the DIFC courts, and should therefore be treated as such by the Dubai courts. This judgment effectively allowed the use of the DIFC courts as a conduit jurisdiction to enforce foreign judgments when the subject matter of the execution is situated outside the DIFC.

Due to the growing conflict of jurisdiction between the DIFC courts and the Dubai courts, by Dubai Decree No. 19 of 2016 the Ruler of Dubai established the Joint Judicial Tribunal (Judicial Tribunal) to resolve conflicts of jurisdiction that may arise between the Dubai courts and the DIFC courts. Until recently, the decisions of the Judicial Tribunal favoured the jurisdiction of the Dubai courts in the event of conflict, and appear to establish a view that the Dubai courts have general or ordinary jurisdiction and that the DIFC courts must only exercise this power in exceptional circumstances (as in the case where a defendant has assets within the DIFC).

However, in Cassation No. 8/2020 (Judicial Tribunal), the Judicial Tribunal confirmed the DIFC courts' jurisdiction to recognise and enforce foreign arbitral awards under the New York Convention. The Judicial Tribunal stated that the UAE is a party to the New York Convention for the recognition of foreign arbitration decisions and their implementation by Federal Decree No. 43 of 2006, which provides that any court in the UAE can carry out recognition and enforcement procedures, and that the DIFC courts fall within this jurisdiction. In Cassation 8/2020, neither party had nexus in the DIFC. The decision confirmed that the DIFC courts are courts of original jurisdiction for the recognition and enforcement of foreign arbitral awards under the New York Convention. This decision has provided clarity on whether the DIFC courts can be used to enforce foreign judgments when the parties and subject matter of the execution are situated outside the DIFC.



## Alternative Dispute Resolution

30. What are the main alternative dispute resolution (ADR) methods used in your jurisdiction to settle large commercial disputes? Is ADR used more in certain industries? What proportion of large commercial disputes is settled through ADR?

ADR is generally understood to mean methods of dispute resolution other than through the intervention of courts or arbitration. There is no statutory framework for enforcing decisions of boards set up for the purpose of conciliation, mediation or expert evaluation. There are also no specific dispute resolution boards. The Chambers of Commerce of each of the Emirates have their own arbitration and conciliation rules. There is however no mechanism to enforce an order of a conciliation board.

Disputes before the federal courts must be referred to the Reconciliation and Settlement Committee (Committee) (see [Question 3](#)). If the parties come to an agreement before the Committee, that agreement is binding and enforceable. In the absence of an agreement, any order of the Committee is not enforceable. The Committee usually refers the dispute to the courts if a settlement is not reached.

In Dubai, a Special Judicial Committee constituted by law (Dubai Law No. 2 of 1993 setting up a special judicial committee for the resolution of disputes between landlords and tenants) has exclusive jurisdiction to determine all landlord and tenant disputes. The Special Judicial Committee's order is final, binding and enforceable. There is a Centre for Amicable Settlement of Disputes in Dubai (see [Question 3](#)).

In addition, all disputes between employer and employee must be first referred to the Ministry of Labour for settlement. However, an order made by the Ministry is not final and binding. In the absence of any mutual agreement, the final determination is made by the courts.

Further, all of the above procedures are subject to the sovereign right of a ruler to dispense justice to its subjects (see [Question 1, Legal System](#)).

31. Does ADR form part of court procedures or does it only apply if the parties agree? Can courts compel the use of ADR?

See [Question 30](#). With the exception of references to the Reconciliation and Settlement Committee, and references to the Centre for Amicable Settlement of Disputes in Dubai (which are required by law), ADR does not form part of court procedures. The courts cannot compel the use of ADR in commercial disputes.

32. How is evidence given in ADR? Can documents produced or admissions made during (or for the purposes of) the ADR later be protected from disclosure by privilege? Is ADR confidential?

The purpose of the hearing before the Reconciliation and Settlement Committee (Committee) is to attempt to settle the dispute amicably. The parties or their legal representatives make oral representations and try to negotiate a settlement. As the purpose is to try to settle the case, documents are not usually filed. Documents produced or admissions made in hearings before the Committee are not privileged (see [Question 16](#)).

The hearing before the Committee takes place in a room to which the public has access.

In arbitration, the parties can agree on the method of giving evidence. It is common to see a mix of both witness statements and oral testimony. Oral testimony must be given under oath. Arbitration is considered confidential in the UAE.

33. How are costs dealt with in ADR?

In arbitration, costs are ordinarily dealt with in the final award. The courts, in enforcing costs orders from arbitrations, generally require evidence that the parties have agreed to give the arbitrators the power to grant legal costs.

34. What are the main bodies that offer ADR services in your jurisdiction?

The Reconciliation and Settlement Committee and the Centre for Amicable Settlement of Disputes, Dubai International Arbitration Centre, the Sharjah International Arbitration Centre, and the Abu Dhabi Commercial Conciliation and Arbitration Centre all offer conciliation and arbitration services (see [Question 3](#)).

## Proposals for Reform

35. Are there any proposals for dispute resolution reform? If yes, when are they likely to come into force?

There are no current proposals for dispute resolution reform.

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#### Publications

- *Banking Regulation, Getting the Deal Through, 2020 (co-author of the UAE chapter).*
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- *Doing business in the United Arab Emirates, Practical Law Global Guide, 2020.*
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