

Legal Alert



The treatment of ongoing criminal cases for bounced cheques in the Emirate of Dubai

By Chatura Randeniya | 14 January 2022

It is now common knowledge that after January 2, 2022, issuing a cheque that is dishonoured for the lack of funds is no longer going to be a criminal offence in the UAE (for a primer on the changes made to the law, click [here](#)). But what of ongoing complaints and criminal cases regarding cheques that were dishonoured prior to January 2? Circular No. (9) of 2021, issued by the Dubai Public Prosecution Department on 19 December 2021, helpfully clarifies how such cases are to be handled.

Where the case is at the stage of a criminal complaint filed at a Dubai Police station: The police are required to dismiss the complaint and cancel any police orders (including travel bans) issued with respect to the complaint.

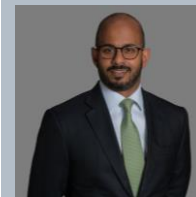
Where the case is at the stage of an investigation before the Dubai Public Prosecution: The prosecutor is required to administratively dismiss the case if the investigation procedures are yet to be commenced, or issue a decision to reject the case if the investigations have commenced, travel bans are to be revoked, and the files are to be closed.

Where the case is pending before the Dubai Court of First Instance: The prosecutor handling the matter is required to apply for the acquittal of the defendant.

Where the case is pending before the Dubai Court of Appeal or the Court of Cassation following a judgment convicting the defendant: The prosecutor handling the matter is required to apply for cancellation of the appealed judgment and seek an order acquitting the defendant.

Where a final judgment convicting the defendant has been issued: The Execution Division of the Dubai Court is required (in consultation with the Public Prosecutor's department) to put in place a mechanism to cancel enforcement of the judgment, including cancelling orders for the arrest of the defendant and travel ban orders.

The Author



Chatura Randeniya

Partner

crandeniya@afridi-angell.com

Tel: +971 4 330 3900

Chatura's practice focuses primarily on dispute resolution. He advises and represents clients in arbitration, and has represented clients in DIAC, ADCCAC, ICC and ad hoc arbitrations. He also works with local advocates on matters before the UAE Federal courts. Chatura regularly advises clients in high value construction, and maritime and shipping disputes. He is admitted as Attorney-at-Law of the Supreme Court of Sri Lanka. He is a recommended practitioner by Chambers and Partners and Legal 500.

It is interesting to note that although Federal Decree No. 14 of 2020 (which decriminalised the act of issuing a cheque which is dishonoured for lack of funds) does not have retrospective application, the effect of Circular No.9 is to give it retrospective application. It is important to remember that not all cheque-related crimes have been decriminalised, and the Circular makes it clear that the remaining offences will continue to be prosecuted. It should be noted that Circular No. 9 only applies in the Emirate of Dubai. ■

Afridi & Angell

Founded in 1975, Afridi & Angell is a full-service UAE law firm in its fifth decade at the forefront of the legal community. From the beginning, our hallmarks have been a commitment to quality, unsurpassed knowledge of the law and the legal environment, and crafting of innovative business solutions. Licensed in the three largest Emirates of Abu Dhabi, Dubai and Sharjah as well as the Dubai International Financial Centre, our practice areas include banking and finance; corporate and commercial law; arbitration and litigation; construction; real estate; infrastructure projects; energy; project finance; maritime (wet and dry); and employment. We advise local, regional and global clients ranging in size and sophistication from start-ups, sole proprietorships, family-owned businesses, entrepreneurs and investors to some of the world's largest public and private companies, governments and quasi-government institutions. We attract and retain clients with our dedication to practical guidance focused on their business needs supported by decades of experience here in our home jurisdiction, the UAE.

Afridi & Angell is the exclusive member firm in the UAE of top legal networks and associations, most notably Lex Mundi, the world's leading network of independent law firms, and World Services Group.

www.afridi-angell.com