

inBrief



Are appeals to the court of appeal a matter of right under the new Civil Procedure Law?

By Mevan Bandara and Nazim Hashim | 9 January 2023

The UAE has introduced a new law on civil procedure (Federal Decree-Law 42/2022) which repeals Federal Law No. 11 of 1992 on civil procedure and its executive regulations issued under Cabinet Resolution No. 57 of 2018. The new law came into force on 2 January 2022.

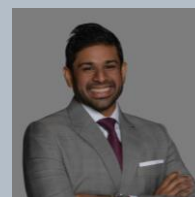
As a firm that has an extensive practice before on-shore UAE Courts, the routine advice given to a client on the UAE Court system is that an appeal to the court of appeal is generally available as a matter of right (provided the monetary threshold of the claims are met), and that there is no concept of 'leave to appeal', as can be seen in other jurisdictions.

While it appears that this position remains, the new law provides for an added level of scrutiny of the appeal, where the court of appeal is required to deliberate on the appeal in chambers (Article 167 of the new law). This deliberation occurs after the appeal is referred to the judge by the Case Management Office. Generally, the Case Management Office is required to ensure that summons is served on the appellee, and that the appellee is given an opportunity to respond to the appeal.

The new law imposes a 20-working day time-line for such deliberation, and the court may either decide on the appeal, or schedule a hearing for the examination of the merits. If the court decides that the appeal is inadmissible or that the judgment appealed is to be affirmed, the court is required to render a reasoned judgment.

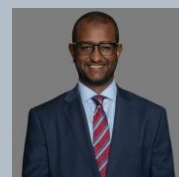
Parties therefore will need to ensure that its submissions filed before the Case Management Office are comprehensive, as there is a possibility that the appeal will be decided based only on the submissions filed before the Case Management Office.

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Apart from this additional level of scrutiny, Article 167 of the new law clarifies the following:

- relief that has not been sought before the court of first instance cannot be included in the court of appeal - Article 167(5);
- addition of parties to a dispute, including applications to intervene are not permitted in the court of appeal - Article 167 (6); and
- an appeal to the court of appeal necessarily entails a re-trial, where all decisions and judgments rendered in the court of appeal will be reviewed. ■

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