



# ICLG

The International Comparative Legal Guide to:

## Litigation & Dispute Resolution 2017

**10th Edition**

A practical cross-border insight into litigation and dispute resolution work

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## EDITORIAL

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Welcome to the tenth edition of *The International Comparative Legal Guide to: Litigation & Dispute Resolution*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of the laws and regulations of litigation and dispute resolution.

It is divided into two main sections:

One general chapter. This chapter provides an overview of Cybersecurity, particularly from a UK perspective.

Country question and answer chapters. These provide a broad overview of common issues in litigation and dispute resolution in 41 jurisdictions, with the USA being sub-divided into 10 separate state-specific chapters.

All chapters are written by leading litigation and dispute resolution lawyers and industry specialists, and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor Greg Lascelles of Covington & Burling LLP for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at [www.iclg.com](http://www.iclg.com).

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# United Arab Emirates

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## I. LITIGATION

### 1 Preliminaries

#### 1.1 What type of legal system has your jurisdiction got? Are there any rules that govern civil procedure in your jurisdiction?

The UAE is a federal constitutional regime consisting of seven emirates. The UAE has a civil law system where there are federal laws and independent state/emirate laws. The federal law supersedes the state laws. Therefore, all state laws should be within the ambit of the federal laws and do not contradict any federal laws. Each emirate retains its right to promulgate law within what is permissible under the federal law of the UAE. The UAE has a Federal Civil Procedures Law which governs the judicial and litigation procedures of the UAE. The UAE has a court that has recently been set up, namely, the Dubai International Financial Centre Courts (DIFC Courts) and the Abu Dhabi Global Markets Courts (ADGM Courts). Where the main sources of law for the UAE Courts are the constitution, civil laws, sharia laws and customs, the DIFC Courts rely mainly on the DIFC laws and the laws of England and Wales.

#### 1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

The UAE's Ministry of Justice administers all the courts with the exception of Abu Dhabi, Dubai, the DIFC Courts, ADGM Courts and Ras Al Khaima, who have their own courts, and each emirate administers their own courts.

Dubai, DIFC, ADGM Courts, Abu Dhabi and Ras Al Khaima have retained their own independent courts and judges, which are separate from the Federal Judiciary Authority.

Dubai's courts comprise a Court of First Instance, a Court of Appeal and a Court of Cassation. The DIFC Courts and ADGM Courts are specialist courts for the DIFC area/jurisdiction, consisting of a First Instance and Appeal Court. The other emirates have a Court of First Instance, a Court of Appeal and a Supreme Court. Additionally, each emirate has a separate rental dispute court, or tribunal that hears rental disputes (the DIFC hears its own rental disputes within its jurisdiction).

Other than the DIFC and ADGM, the courts in each emirate have civil and criminal courts. The civil courts are generally separated into different types: civil; commercial; property; personal status; and labour. The criminal courts are separated into misdemeanour courts

and felony courts. There are sometimes variations within the types of civil courts and sub-sections within the criminal courts. Any rental matters are generally entertained within each emirate's rental dispute tribunal, except for the DIFC. The DIFC have a different organisation of their courts according to the type of dispute at hand. Moreover, there is a further division of the courts, in respect of the amounts being claimed. In the civil courts, a panel of three judges will hear a dispute for any amount above AED 200,000 (in Dubai AED 500,000). A single judge presiding will hear any claim under the amount of AED 200,000 (in Dubai AED 500,000). The Court of Cassation or the Supreme Courts will not entertain cases less than AED 200,000. The DIFC have a separate system of separation in respect of value whilst the rental disputes have no separation in respect of value.

In respect of the levels of appeal in the civil and criminal courts in the UAE (excluding DIFC and rent tribunals), the initial level of a dispute is heard in the First Instance Court; however, for certain cases, mediation is required prior to court. A judgment from the First Instance Court may be appealed on the grounds of the substantive merits and/or the application of law. Thereafter, the final court of appeal is the Court of Cassation in Dubai and the Supreme Courts in the other emirates. The DIFC also has a Court of First Instance, which entertains disputes and thereafter an Appeal Court, which is the final court. The rent tribunals have a First Instance and an appeal.

#### 1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

There are three main stages of litigation in the UAE legal system which begin at the Court of First Instance and end at the Court of Cassation. In certain matters and types of cases, a preliminary step should be followed before proceeding to the Court of First Instance, for instance, in labour disputes, a complaint must be filed at the Ministry of Labour (or labour office) which takes up to three weeks to complete. Another example, in Dubai, in cases where an appointment of expert is claimed, it must first be dealt with at the dispute resolution centre which takes up to five months. After the initial stage is complete (as required by the different laws or rules for different cases), a claim may be filed at the Court of First Instance. In certain cases, the Court of First Instance also has a case management department, which takes place before actually being presented to a judge. A duration of seven months is expected in order to issue a judgment from the First Instance Court. Thereafter, if an appeal is filed, the Court of Appeals usually takes from four months up to a year for judgment. Further on, if an appeal is made to the Cassation Court or the Supreme Courts, it can typically take anything between

four months and a year or more. Subsequently, in the event that any execution of judgments of the counter-party having liquid assets (bank accounts), can take up to three months, while in the event of immovable assets or any other assets it can take much more. In total, a claim in the federal courts or in Dubai Courts can take anywhere between 15 months to three years for final judgment.

The amount of time that a case may take in the DIFC First Instance Courts varies significantly and depends on the size and complexity of the case. This time can vary between three months to up to two years (or more if jurisdictional arguments are appealed before entering into liability/claim and quantum trials). Thereafter, in the appeal courts, the case can take anywhere from three months up to nine months.

Rental disputes and cases at the First Instance Tribunal generally take three months and an appeal thereafter two months.

#### 1.4 What is your jurisdiction's local judiciary's approach to exclusive jurisdiction clauses?

The UAE judiciary recognises a party's autonomy in respect of exclusive jurisdiction clauses. In the event that parties agree on a certain clause, the UAE Courts will respect such an agreement. The courts will also respect any agreement between the parties to apply a law of their choice or a venue/forum for a dispute, so long as the agreement does not breach any of the 'public order' or sharia law principles or any specific procedure that the law requires.

#### 1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

Court fees differ from emirate to emirate and in the DIFC. The standard rules on cost is that the losing party pays the costs.

Court fees in most of the emirates can reach in the highest of claims AED 60,000 (including other fees) for the First Instance Court, Appeal Court, and Court of Cassation. A large part of this sum is recoverable or may be claimed from the losing party.

Court fees in the DIFC Courts vary a lot. There are several different fees for each stage of the case; for example, there are fees for the registration, fees for any application put in, fees for each day of trial and several other fees. In a simple, straightforward case (not small claims), the fees can reach up to USD 20,000. However, we have not included in this scope small claims courts which involve lower fees.

The costs for the ADGM Courts are generally around 2.5% or less of the claim amount. There are additional fees for every additional hearing and enforcement.

The cost advantages to settling before trial is the legal fees for UAE Courts (not DIFC). The reason being that the UAE Courts (except for the DIFC) compensate for very few legal costs.

The losing party bears the entire cost including the court costs. The lawyers' fees are marginally recoverable from the federal and Dubai Courts. On average 65% of the lawyer fees are recoverable in the DIFC on a standard basis and up to 90% on an indemnity basis. There is no budgeting law for cases in the UAE.

#### 1.6 Are there any particular rules about funding litigation in your jurisdiction? Are contingency fee/conditional fee arrangements permissible?

There are no rules pertaining to funding litigation in the UAE.

Within the UAE, except for the DIFC, conditional and contingency fee arrangements are not permissible.

The DIFC allows for conditional fee arrangements but not contingency fee arrangements.

There are no rules for security of costs in the Federal and Dubai Courts. The DIFC provides rules of the security for costs.

#### 1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

There are no constraints to assigning a claim or cause of action, but there are requirements that one must undertake before doing so. This follows the principles of the novation of rights in the UAE civil jurisdiction. The DIFC laws allow for such assignment, and a non-party to a litigation may fund litigation proceedings.

#### 1.8 Can a party obtain security for/a guarantee over its legal costs?

Although the UAE law does not provide for such types of orders, in certain local jurisdictions, such as Abu Dhabi and Dubai Courts, a party to an action may request deferring the fees in total or in part. In such a case, the court has the full discretion to grant or reject the deferral. The court may also exempt a party from all the fees depending on the party's financial affordability. Furthermore, in Dubai, the Plaintiffs, in certain types of cases, are exempted from the fees. For instance, the employees in labour disputes are exempt from the fees in claims not exceeding 1,000,000 UAE Dirhams. In domestic violence cases the victims, women and children, are exempted as well.

The DIFC Courts allow for a party to seek security over costs.

## 2 Before Commencing Proceedings

#### 2.1 Is there any particular formality with which you must comply before you initiate proceedings?

There are specific requirements like mediation or complaints that should be made before initiating certain types of proceedings at the courts. In relation to formalities, there are requirements when initiating proceedings in respect of the documents submitted, including the power of attorney, proof of identity or incorporation and other standard requirements. A notice before taking action should also be sent.

#### 2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

There are many limitations and time bars that apply to certain types of rights and claims. The days are calculated as calendar days, and if the last day falls on a holiday, it is extended to the next working day. The time limits and bars are a matter of substantive law. The general rules relating to the time bars of bringing a claim is 15 years, but several statutes contain other time limits, for example:

Subject to exceptions, the limitation period for the UAE civil courts is generally:

Three years for criminal matters.

Three years for causing harm (tort).

One year for employment-related disputes.

### 3 Commencing Proceedings

#### 3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Civil proceedings are served through a court bailiff and are served in accordance with the rules, to a person by hand, or to a relative of first degree, or to his workplace, or to his house. In the event that the service was not possible, and after investigating the address of the person to the best extent possible, the courts may order to serve him by broadcasting the service in the newspapers as a final step. The DIFC process requires that service is made by personal service in the first instance and thereafter via home address; in the event that the person is not found, a service can be made by substitution, either through email, courier, lawyers or a family member.

The date of service is the day on which he receives the summons or the day it is published in the newspapers (in case he is not found). Service of UAE Court summons are made outside the jurisdiction through diplomatic means, unless there is a bilateral treaty to provide otherwise. The preferred method of Foreign Service for foreign court summons are usually made via courier or by a court bailiff through diplomatic means.

#### 3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

There are pre-action or pre-suit remedies available in the UAE, both in the UAE Courts and the DIFC. One may apply for them by directly lodging an application to the courts. The criteria to obtain such remedies vary according to the remedy which a person is seeking; generally, such remedies will require two important elements: a) fear of irrecoverable loss; and b) fear of evasion.

#### 3.3 What are the main elements of the claimant's pleadings?

Article 42 of the Civil Procedures Code provides that a case may be raised by application of the claimant with the following: i) name of claimant and respondent and their profession, domicile, name of representative; ii) subject of the claim, the claim and substantiations; iii) date that the claim has been presented to courts; iv) the court that the claim is before; and v) signature of the claimant or representative.

#### 3.4 Can the pleadings be amended? If so, are there any restrictions?

A plaintiff may submit an interlocutory application that amends the original application, either by the subject matter or because of circumstances that have occurred after. There are restrictions to changing a plea, which mainly read that the amendment must be related to the original claim or the completion of the original claim.

#### 3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

The Plaintiff may abandon the dispute at any stage of the proceedings provided that it notifies the Defendant or provides

an explicit statement of its intentions via a memorandum. The approval of the Defendant is required in such case so long as it has made its pleadings. In addition, any party of interest to the dispute may request pronouncing the proceedings lapsed in case a period of six months lapses from the last valid procedure taken during the litigation proceedings. If the proceedings are pronounced lapsed by the court on the basis of any of the foregoing cases, any orders or decisions made for proof purposes shall be deemed lapsed and the revocation of all the proceedings of the dispute retroactively. Nonetheless, the right to bring the dispute into action does not lapse as well as the final judgments issued in such disputes or the proceedings prior to such judgments, the admissions of the parties or their oaths. Furthermore, the parties may withhold the investigation procedures and experts reports unless they are void *per se*. In the case of abandonment made by the Plaintiff, they shall incur all the fees and costs of the proceedings.

### 4 Defending a Claim

#### 4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

The defendant may bring a counterclaim; however, the payment must not be set-off. Unless such amounts are a result of several business dealings with the defendant, the courts will seek to award the claimant the amount owed at the time of raising the suit. The main elements of a statement of defence are:

1. Names and details of the parties.
2. Statement containing the defence and evidence in respect of procedural issues and substantive issues.
3. The lawyer's Power of Attorney.

#### 4.2 What is the time limit within which the statement of defence has to be served?

In the UAE Courts, a statement of defence may be submitted in any hearing before the case is adjourned for judgment. The judge will usually allow the defendant an adjournment of around three weeks for his defence.

The DIFC provide for time limits set by the judge where statement of defence may be submitted.

#### 4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

There are provisions in the Civil Procedures Code allowing the defendant to introduce third party defendants and parties to the case if the judge sees that there is a valid reason to do so.

#### 4.4 What happens if the defendant does not defend the claim?

A judgment will be issued and the judge will award the case to the claimant if the claimant has properly substantiated his claim.

#### 4.5 Can the defendant dispute the court's jurisdiction?

The defendant can dispute the court's jurisdiction.

## 5 Joinder & Consolidation

### 5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

The procedural law allows third parties to join in ongoing proceedings in the first instance and the courts have the ultimate authority depending on the circumstances to decide whether a third party can join the proceedings or not.

### 5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

The rules allow for the consolidation of two sets of proceedings; however, two fees will be paid in any event. The claim is represented as two separate claims for fee purposes, but entertained by the courts as one proceeding only if the parties are the same. In the event that there are different parties involved, the courts will not consolidate the proceedings. There are very few class actions available to the UAE such as labour disputes. The DIFC laws, however, allow for consolidation.

### 5.3 Do you have split trials/bifurcation of proceedings?

In some instances, the UAE Courts have bifurcation of proceedings for jurisdictional and substantive matters, but not for matters where a judgment is made for liability and later on the quantum. The DIFC practise split trials and bifurcate proceedings as it deems necessary, whereby a trial will be had for the liability aspect and thereafter the quantum.

## 6 Duties & Powers of the Courts

### 6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

The case allocation in the UAE civil Courts works by allocating cases in accordance with the amount claimed and its type. Cases under the amount of AED 200,000 (AED 500,000 Dubai Courts) will be considered minor and cases above the amount of AED 200,000 (AED 500,000 for Dubai cases) will be considered major. Cases also vary into different types, i.e. civil, commercial, labour and property.

### 6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The UAE Courts do have case management powers, but they are not used or infrequently used. However, the Dubai Courts have recently initiated a case management department for certain cases. The DIFC also have a case management process.

There are several interim remedies available from the courts including freezing assets, travel bans, obtaining or retaining possession of movable assets, orders to prove certain evidence in a

speedily manner (to prevent the risk of changing circumstances) and various other orders requiring certain parties to act.

The cost consequences are considered as part of the court fee for the UAE Courts, and the DIFC cost consequences are considerable.

### 6.3 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court's orders or directions?

The courts have a variety of sanctions for parties that disobey court orders; however, these vary in respect to the stage at which the disobedience occurs, and the manner in which the party disobeyed the court. In execution orders, if a party disobeys the court, the court may call to order the person apprehended and presented before the courts. Alternatively, the court may impose a fine.

### 6.4 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

The courts in the UAE do not have such power to strike out a statement of a case or to dismiss a case entirely; judges may provide various reasonings for doing so. The most common reasons are that it conflicts with the 'public order', or non-compliance with procedural law and jurisdictional issues.

### 6.5 Can the civil courts in your jurisdiction enter summary judgment?

The court may, in urgent circumstances, make an order without a full trial or the representation from the defendant. Urgent circumstances include applications, injunctions or other similar actions.

However, for proceedings (other than interim actions) hearings afforded to the respondent, provide them with the right to submit all the defence they deem necessary.

### 6.6 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The courts have the power to discontinue and stay proceedings for various reasons. Some of the most common reasons include: when there is a criminal case that is connected to a civil claim; an absent claimant for a hearing; or if the courts view that there are good reasons to stay proceedings.

## 7 Disclosure

### 7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

There are rules in the evidence laws in the UAE that obligate the counter-party to provide documents in their possession under certain circumstances. Furthermore, the courts may also obligate a third party to provide documents to the courts following certain rules within the evidence laws. Electronic documents obtain their

status from the electronic law of the UAE and are governed in a very similar way. The basic rules for electronic disclosures are that a party should cite their source and provide a printed copy of such documents or evidence.

The basic rules of disclosure for a claimant or respondent in respect of his own pleading is whether the party was able to submit such documents beforehand and as a result caused an adjournment to another hearing. In such cases, the court may (if the counter-party requests) fine the party causing such delay.

It is possible to obtain a pre-order (interim-relief) to investigate certain evidence. However, this requires that a party proves evidence of fear of the party not being able to obtain such evidence afterwards. The courts will generally appoint an expert to go to the place where such evidence may be obtained and to obtain the evidence that is requested. There are no classes of documents that do not require disclosure; any information which a party would like to substantiate to the courts should be submitted.

## 7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Communication between a lawyer and client is confidential. Lawyers must not disclose privileged information without the consent of a client.

## 7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

The parties may request the courts to seek disclosure from third parties and/or the courts may also oblige a third party to provide disclosure. The basic rules are that: i) the law obliges the party to disclose such documents; ii) if the document was shared between the parties and shared in respect of proving any of their rights or obligations; and iii) if the counter-party has relied on such document in any stage of his defence.

## 7.4 What is the court's role in disclosure in civil proceedings in your jurisdiction?

The courts may, in the interest of justice, order a disclosure in accordance with the rules to ensure that the judge obtains everything he needs to make a correct judgment.

## 7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

There are no rules or restrictions as to the use of documents obtained by disclosure.

# 8 Evidence

## 8.1 What are the basic rules of evidence in your jurisdiction?

The basic rules of evidence are that the claimant must prove his right, and it is for the respondent to prove otherwise. Furthermore, the facts that a party wishes to rely on must be related to the case and be productive and admissible. Therefore, the law states that the judge may not decide on his personal knowledge, the judge must rely on the evidence before him.

## 8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

The evidence that is admissible before the UAE Courts is documentary evidence, expert evidence, and witness evidence.

## 8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

There are several rules regarding the calling of witnesses of fact. Many rules limit to what the witness may be called for, e.g. witnesses may not be called for proving their value which exceeds AED 5,000, unless such acts were of a commercial nature or the law states otherwise. In addition, witnesses may not be held witness against facts deduced from written evidence. If the witness intends to witness that a right exists or part of that, it can only be proven by written document. Witness statements though can be made as an exception to the rule if: the written evidence indicates that an act may have been done by the respondent; if there was a moral reason or reasons that written evidence could not be obtained; if the claimant has lost his written evidence as a result of a third party act which he had no control of; and if the courts for good reason allowed the witness statement to be allowed, etc.

Witness statements and depositions are usually made after a party submits to the court their witness statement that they are seeking to prove beforehand. Thereafter, when the witness is brought forward, the courts will request that he takes an oath to tell the truth, and after giving his statement he will be required to sign a written record of the hearing and his statement.

## 8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Does the expert owe his/her duties to the client or to the court?

There are several rules in relation to the experts. Experts provide independent advice to the courts without representing any of the parties in question and the expert owes his duty to the courts. The parties may provide their independent expert reports; however, the courts generally put more weight on a court-appointed expert. The experts are generally given a set of instructions by the courts, and the courts will consider in its interim judgment what the parties seek to prove and what the courts wish to establish. The expert will then be appointed and his fees paid for by the party for whom the expert is proving the evidence. The expert will then record the minutes of the liaisons which he had with the parties and conduct himself according to the instructions of the judge. Thereafter, he will provide his draft report for the parties to comment on before submitting his final report to the courts.

# 9 Judgments & Orders

## 9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

The civil courts may make interim orders, judgments, and final orders. They may also make temporary (interim-relief) judgments.



## 9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

The courts have full powers to make rulings on damages, interests and costs pursuant to the Civil Procedures Code.

## 9.3 How can a domestic/foreign judgment be recognised and enforced?

The law in the UAE provides the recognition of foreign judgments. A case must be registered with the courts to recognise a foreign judgment. Once the courts produce a final judgment recognising a foreign judgment, the party may then proceed to open an execution file, whereby the execution judge can then order to seize a respondent's assets along with other powers to ensure that payment is made.

## 9.4 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

Proceedings that were unsuccessful in the Court of First Instance have the right to appeal to the Court of Appeal. A party may appeal any argument to the appeal courts and a party does not require a permission to appeal; rather, he must ensure that he appeals according to the procedures and rules set. However, the Cassation and Supreme Courts will only accept appeals in relation to whether the courts have adhered to the law and will avoid determining the substantive matters of the case.

## 10 Settlement

### 10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

In certain types of cases, parties must follow a certain procedure that encourages settlement. For example, employment claims must first be presented to the ministry of labour who meets with both the parties and understands the issue and seeks to resolve the matter amicably. The judge has the power to what he deems fair to adjourn the proceedings and request that the parties attempt to settle the matter.

## II. ALTERNATIVE DISPUTE RESOLUTION

### 1 General

#### 1.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

Arbitration is the most widely used method for ADR in the UAE. Mediation is not often used and arbitration has become an acceptable alternative in court proceedings in the UAE, especially between commercial companies and business individuals.

#### 1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

The Civil Procedures Law provides rules that govern arbitration.

There are other laws for different types of matters that are provided for in different laws; for example, tribunals have been set up for different types of claims that look into disputes of such nature, e.g. rent tribunals, exclusive agency committee, etc.

#### 1.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

The law does not forbid the use of ADR as alternative means. What is important to know is that an ADR will eventually yield a signed enforceable settlement that may be used to enforce rights.

#### 1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, will the court force parties to arbitrate when they have so agreed, or will the court order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

The local courts may accept cases where a party wishes to appoint arbitrators, and the court will handle the claimant and respondent in the correct manner and appoint arbitrators on their behalf if requested. We have not seen courts engage in other forms of ADR like appointing mediators or otherwise.

#### 1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

The law in the UAE provides that the courts will respect arbitration judgments that were conducted in accordance with the civil procedural rules of the UAE. For other types of mediation, the UAE Courts do not have provisions to deal with such mediation. A mediation settlement agreement that does not strictly follow the rules of the arbitration procedures of the UAE may be disregarded; however, a settlement agreement signed between the parties as a result of a mediation will be respected if the rights and obligations of the parties are clearly identified after the mediation as though it was a settlement signed between two parties.

## 2 Alternative Dispute Resolution Institutions

### 2.1 What are the major alternative dispute resolution institutions in your jurisdiction?

The London Court of International Arbitration DIFC-LCIA, Dubai International Arbitration Centre (DIAC), Abu Dhabi Arbitration Centre (Abu Dhabi Chamber of Commerce), and the Sharjah Arbitration Centre.

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With nearly a decade of successful litigation experience across the United Arab Emirates, Mr. Alshamsi has built one of Dubai's most reputable and respected law practices. He is widely regarded as a top litigator in the Dubai Courts with extensive experience in corporate, banking and finance and insurance law. Mr. Alshamsi advises both local and international companies and governmental entities in cases involving complex litigation. He appears regularly before both the Appeals Court and the Court of Cassation as well as UAE's Federal Supreme Court. Mr. Alshamsi was quoted as being "...very thorough and highly efficient – Hamdan faced each challenge with strategy, professionalism and confidence which ultimately resulted in our successful outcome". It is no surprise that he has been awarded the most influential young leaders in the Middle East and the young achiever award and many more.

## HAMDAN ALSHAMSI

LAWYERS & LEGAL CONSULTANTS

Hamdan AlShamsi Lawyers and Legal Consultants was established in 2011, and has since become a name synonymous with success and is well known in the legal circuit. The law firm specialises in advising on commercial issues, insurance, due diligence, family law, intellectual property law, banking, companies law and other matters locally, and is dedicated to offer unparalleled, high quality and culturally sensitive legal services while adhering to the highest standards of integrity and excellence.

