

Enforcement of UAE court judgments in India

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Overview

On 17 January 2020, the Indian Ministry of Law and Justice declared the UAE to be a 'reciprocating territory' for the purposes of section 44 of India's Code of Civil Procedure (Law No. 5 of 1908) (the 'CPC'), which addresses the enforcement of civil judgments in India (the 'Notification').

As a 'reciprocating territory', judgments of the following 'Superior Courts', listed in the Notification, can now be enforced in India as if they were local Indian Court judgments:

1. the UAE Federal Supreme Court;
2. the Federal, First Instance and Appeals Courts in the Emirates of Abu Dhabi, Sharjah, Ajman, Umm Al Quwain and Fujairah;
3. the Abu Dhabi Judicial Department;
4. the Dubai Courts;
5. the Ras Al Khaimah Judicial Department;
6. the Courts of Abu Dhabi Global Markets; and
7. the Courts of Dubai International Financial Centre.

Position prior to the Notification

In 1999, the UAE and India entered into a bilateral treaty for judicial cooperation and the mutual recognition and enforcement of judgments. The agreement on 'Juridical and Judicial Cooperation in Civil and Commercial Matters for the Service of Summons, Judicial Documents, Judicial Commissions, Execution of Judgments and Arbitral Awards' was an agreement to facilitate efficient and simplified legal processes, such as the service of judicial documents and summons and the enforcement of civil court judgments.

However, the simplified legal processes were never fully implemented and parties seeking to enforce an UAE Court judgment in India were generally required to commence fresh proceedings and obtain a new civil judgment from the Indian Courts. The process of enforcement of UAE Court judgments in India was therefore time-consuming and expensive.

Current position

Under the CPC, foreign judgments from courts of 'reciprocating territories' can be directly enforced as if they are Indian Court judgments. This means that an UAE Court judgment can now be immediately enforced in India without the need to obtain a new civil judgment from the Indian Courts.

The new process is not automatic and the enforcing party will be required to file execution proceedings in the competent Court in India (likely to be a district court) along with a certified copy of the UAE Court

judgment and a certificate from the relevant UAE 'Superior Court' confirming whether any of the judgment has been satisfied. The judgment creditor will be given an opportunity to object to the enforcement.

Significantly, the applicable limitation period for the enforcement of an UAE Court judgment in India has been extended from three years, when the UAE was a non-reciprocating territory, to 12 years under the new regime (Indian Limitation Act 1963).

Importance of the Notification

It was reported by the Khaleej Times that bilateral trade between the UAE and India grew from US\$52 billion in 2017 to US\$57 billion in late 2018 and that the two nations have set a US\$100 billion trade target by 2020. On a less positive note, it was reported recently by the Gulf News that over the past five years, total defaults by Indian borrowers in the UAE was estimated to be in excess of AED 26 billion (US\$7 billion).

Whilst the new regime is still in its infancy and is yet to be tested, this is a significant development and presents an exciting opportunity for creditors to pursue debtors located in India through the UAE Courts (including the Courts of the DIFC and the ADGM) and when considering dispute resolution provisions in contracts.

It is also of particular relevance to family law matters where UAE Court judgments relating to divorce or alimony need to be enforced against an Indian national and/or resident. Rather than commencing fresh proceedings in the relevant Indian Courts, which can often result in conflicting family law judgments, parties can now enforce UAE Court judgments in India as if they were judgments handed down by the Indian family Courts themselves, thereby significantly reducing the risk of lengthy, duplicated and expensive proceedings.

Al Tamimi & Company's [International Litigation Team](#) regularly advises on the enforcement of UAE and foreign court judgments and arbitral awards. For further information, please contact [Rita Jaballah \(r.jaballah@tamimi.com\)](mailto:r.jaballah@tamimi.com) or [Peter Wood \(p.wood@tamimi.com\)](mailto:p.wood@tamimi.com).