

Dispute resolution in the UAE: making the region highly attractive to international investors

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With many international investors attracted to business opportunities in the Middle East and North Africa, especially in the politically stable and economically buoyant countries of the Gulf, the effectiveness of [dispute resolution services](#) in the region are an important consideration. The Gulf, and particularly the UAE, has a range of strong and stable institutions that can provide justice when disputes occur, and there are numerous formal and alternative dispute resolution processes available to foreign and domestic investors alike.

In the individual Emirates and at the Federal level, the UAE courts are well-used to dealing with foreign parties in disputes. Parties should be aware of the advantages of using the UAE's courts, which are often fast in considering evidence and reaching decisions, and can be cost-effective. They can provide a high degree of privacy too, as hearings are not generally public and parties are not identified in published decisions.

For many investors, there is an English language option based on the common law, which is more adversarial and prefers oral hearings to exchanges of written submissions (both of which are played down in the UAE litigation processes).

The Dubai International Financial Centre Courts are based on the common law, with experienced judges drawn from various common law jurisdictions including the UK, Australia, Malaysia and Singapore, complemented by qualified Emirati judges. Proceedings are conducted in English and follow the English system of public hearings. The DIFC offers a Court of First Instance of rough equivalence to the English High Court, with a Court of Appeal sitting above it, and a dedicated Small Claims Tribunal that hears claims worth up to 500,000 AED.

There are numerous 'gateways' through which the DIFC Courts exercise control over their jurisdiction. For instance, parties physically established within the DIFC (either directly or through a branch entity) automatically fall within the jurisdiction of the DIFC Courts, although they can expressly opt out in their contracts if they wish. Equally, parties not based in the DIFC may opt into the DIFC's jurisdiction through express terms.

The DIFC Courts are the default seat for arbitrations conducted under the rules of the DIFC-London Court of International Arbitration Centre (the DIFC-LCIA) and the specialist Emirates Maritime Arbitration Centre, and, from 2018, under the rules of the Dubai International Arbitration Centre. The Courts have acted as the seat for arbitrations under the International Chamber of Commerce rules too. Parties can opt out of the DIFC's jurisdiction in their arbitrations, of course, and some do. But the DIFC Courts are courts of the UAE, which is a party to the New York Convention, and the DIFC Arbitration Law provides that any arbitral award, irrespective of the state or jurisdiction in which it was made, can be recognised and enforced by the DIFC Courts. The resulting order can be taken for enforcement elsewhere in Dubai and the UAE.

The Courts can also recognise and enforce judgments of foreign courts. A number of memoranda of understanding between the DIFC and various international courts, including the Federal Court of the South District of New York, the High Court in England, the Singaporean High Court and the People's Court of Shanghai, facilitate the recognition and enforcement process both ways, and allow (subject to the foreign

jurisdiction's rules) a DIFC Court judgment to be exported for enforcement against foreign assets.

The UAE is part of a wider network of jurisdictions primarily through the Gulf Cooperation Council. The 1996 GCC Convention provides in certain circumstances for the automatic mutual and reciprocal execution of final judgments of courts of Bahrain, Saudi Arabia, Oman, Qatar, Kuwait and the UAE in the other jurisdictions. The 1983 Riyadh Convention covers 20 countries and also allows for the recognition and enforcement of judgments.

The DIFC Courts are thus a sought-after place for litigation and have become a widely-used seat for numerous arbitrations under a number of institutional rules. The DIFC's Dispute Resolution Authority also offers non-Muslims, including foreigners resident in Dubai or Ras Al Khaimah, the ability to register a will with the Wills and Probate Registry. This gives a testator a large degree of testamentary freedom, akin to that under English law, and means that, upon the testator's death, assets within Dubai or RAK that are covered by a registered will are not disposed of in accordance with the rules of Sharia.

The DIFC is not the only English language, common law court in the UAE, however. The Abu Dhabi Global Markets Courts also sit in a financial free zone and have recently heard their first case. The Courts' future is a growing and promising one: the ICC has recently opened an administrative base in the ADGM, and it is likely that it will become the default (but not mandatory) seat for arbitrations under ADGM-ICC rules.

In conclusion, foreign investors and businesses looking to trade with counterparties in the UAE should remember, above all else, that the UAE is a country governed by the rule of law. Whether through the courts of the individual Emirates, or at the Federal level, or the complementary courts of the financial free zones, a professional judiciary adjudicates disputes free from corruption and in a transparent process that is open to appeal.