

INTRODUCTION

- **PART ONE – Overview of the Judicial System in the U.A.E**
- **PART TWO – Civil Procedure**
- **PART THREE – Criminal Procedure**
- **PART FOUR - Arbitration**

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THE JUDICIAL SYSTEM OF THE U.A.E

- **Civil law system: No system of binding precedent although Court of Cassation cases are persuasive.**
- **Sources of law:**
 - (i) **the Constitution of the U.A.E**
 - (ii) **the Federal Codes**
 - (iii) **Shari'a Law**
- **Federal Codes codify all civil and criminal laws and are based on the Egyptian and Napoleonic codes.**

■ **Court Structure**

- (i) **Court of First Instance**
- (ii) **Court of Appeals**
- (iii) **Court of Cassation (Dubai & RAK)**
Federal Supreme Court (Abu Dhabi & other Emirates)
- (iv) **DIFC Court**

■ **Jurisdiction of Courts**

- (i) **U.A.E Courts have jurisdiction to hear all disputes arising between individuals (Civil Procedure Code)**
- (ii) **Arbitration is an exception to the general rule**
- (iii) **Courts have jurisdiction over disputes arising in Free Zones (with the exception of the DIFC)**

■ **Free Zones**

(i) **Trade Zones set up by the Government to encourage foreign investment in certain industry sectors**

(ii) **Free Zones have their own laws and regulations**

(iii) **Still subject to jurisdiction of U.A.E Courts (except for the**

DIFC

PART TWO – CIVIL PROCEDURE

- **Powers of Attorney: Required before any legal action can be initiated and defended.**
 - **Local advocates: Expats cannot appear in Court. All Court appearances are undertaken by licenced Arab advocates.**
 - **A typical civil claim**
 - (i) **initiated by statement of claim and memorandum in support**
 - (ii) **Court arranges service on defendant**
 - (iii) **Statement of claim may be accompanied by an application to seize assets.**
 - (iv) **defendant files a statement of defence and memorandum in support.**
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■ **Interlocutory Applications**

- **no injunctive relief in the U.A.E**
- **specific performance is available but is rarely awarded and difficult to obtain and enforce**
- **no summary judgment**
- **no compulsory discovery of documents**
- **applications can be made to the Court of Urgent Matters for orders preserving property, appointing a custodian and appointing an expert**
- **experts can look at all aspects of a case including who is at fault, technical issues and quantum**
- **plaintiff can file an amended claim and defendant can file a counter-claim or amended counter-claim at any stage of proceeding prior to judgment.**

■ Appeals

- (i) either party can appeal on a matter of law and/or fact
- (ii) either party can produce new arguments and new evidence

■ Enforcement of Judgments

- (i) judgments are enforced by the Execution Court
- (ii) can be enforced by a sale of assets seized prior to judgment, attachment order, imprisonment of debtor, cashing security paid into Court
- (iii) whether a U.A.E judgment can be enforced overseas will depend on whether the overseas country has a treaty with the U.A.E or a procedure for enforcing foreign judgments generally.

PART THREE – CRIMINAL PROCEDURE

- **Criminal Code codifies what amounts to a crime in the U.A.E**
 - **Many offences that would normally be treated as civil wrongs in a common law country attract criminal liability in the U.A.E (bouncing cheques, property damage, non payment of debts etc)**
 - **Criminal proceedings start with the filing of a complaint with the Police. The Police gather evidence and then refer the matter to Public Prosecutor. The Public Prosecutor determines whether to proceed with the case.**
 - **Findings of the Criminal Court are binding on the Civil Court.**
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PART FOUR – ARBITRATION

- **Most common forms of arbitration**
 - (i) **International Chamber of Commerce (“ICC”)**
 - (ii) **London Court of International Arbitration (“LCIA”)**
 - (iii) **Dubai International Arbitration Centre (“DIAC”)**
- **Points to note when drafting and arbitration clause**
 - (i) **consider whether your client is likely to be wanting to enforce rights under a contract or perform an obligation**
 - (ii) **consider carefully the choice of governing law**
 - (iii) **consider the number of arbitrators required (unless the contract involves matters of a highly technical nature, one arbitration is usually sufficient)**
 - (iv) **consider which procedural rules will better serve your client**

- (vi) consider the enforceability of the **Arbitral Award** under local law (ratification procedure under Civil Code) or the **New York Convention**
- (v) the seat and the location of the arbitration are two separate concepts (The seat is the place where the Award is issued. For example, if an arbitration agreement provides for the seat to be London, it will be an English award, even if the hearing takes place in Dubai)