

Effects of Coronavirus on the legal system and courts

Country: *United Arab Emirates (“UAE”)*

UAE legal system and courts

The UAE is a federation of seven Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Um Al Quwain, Fujairah and Ras Al Khaimah) and is essentially a civil law jurisdiction with Arabic being the main language for proceedings.

The UAE constitution permits each Emirate to retain its own judicial system and accordingly there are Federal courts and “local” courts in the UAE. Abu Dhabi, Dubai and Ras Al Khaimah have elected to have their own judicial system while the remaining four judicial systems are part of the federal judicial system.

The Federal courts and the local courts apply the UAE Federal law as well as the local law and regulations enacted by the Ruler of the Emirate concerned. Although the legal procedures and law applicable in the individual Emirates are similar, there are some differences.

Furthermore, there are two courts that follow a separate common law and where proceedings are conducted in English. Those are the Dubai International Financial Center Court (“DIFC Court”) and the Abu Dhabi global Market Court (“ADGM Court”)

As long as measures to prevent the spread of Covid-19 restrict freedom of movement: What are the effects of the Covid-19 crisis on civil justice?

- **Is there special legislation on the effects of the crisis on civil justice?**

There has been a variety of directives, laws and regulations issued by the federal government as well as each of the seven emirates to address and mitigate the effect of the coronavirus.

The result of that is that the related rules and regulations slightly differ in each of the UAE 7 emirates.

- **Does the crisis have an effect on court hearings?**

Some of the emirates’ courts have adjourned the majority of their hearings until they enact and/or fine tune their remote access and operations.

To that effect for example Dubai courts have adjourned most of their hearings till mid-April with a possible further re-adjournment.

- **Do court hearings take place during the crisis?**

There are various measures adopted by each emirates’ legal system to abide by the necessity of social distancing while maintaining operations.

Some of the emirates court hearings are taking place through video conferencing while others are done through only online submissions.

The federal courts are continuing to hold normal hearings but with emphasis on social distancing.

- **Do court hearings take place in form of video conferences?**

There are various systems being implemented some of them through applications on mobile phones for quick hearings with case management officers at various courts and others through normal video conferencing applications.

- **Does the crisis have an effect on deadlines (of procedural and substantive law)?**

So far we have not seen any specific exceptions

As for the hearings the courts seem to be more amenable to granting some adjournments to accommodate the parties' requests due to the ongoing circumstance. For example, the possible delay to secure additional evidence / documents by the time the hearing is due.

- **Are deadlines of ongoing proceedings affected?**

This is primarily subject to the presiding judge's discretion where adjournments are granted until remote hearings and filings are fine-tuned and tested.

Some court proceedings have been administratively adjourned for a certain period depending on the emirate and the court.

DIFC and ADGM are operating normally but all submission and hearings done remotely.

- **Are deadlines for bringing actions affected (limitation periods)?**

Statute of limitation is not affected and the various courts are making sure that any time bar is taken in consideration and that any case that needs to be registered is registered even if there will be delay in setting the first hearing date.

- **Does the crisis have an effect on enforcement?**

Yes. Most for the UAE emirates have adopted a stay on execution for a period of around 2 months. No attachment of accounts or seizers of property are permitted during that time.

To date Dubai does not have a specific stay but judges have been noted to postpone requests for some enforcement actions citing the ongoing circumstances.

- **Are enforcement orders issued?**

Enforcement orders have been limited or stayed in most courts. However, it is still possible to make inquiries and possibly to also seek precautionary attachments.

- **Are there any effects on deadlines?**

Deadlines so far are not affected.

- **Can enforcement acts be postponed due to the crisis?**

Yes, we have seen a number of parties making requests to the execution courts asking to delay enforcement and the court has mostly approved such requests.

- **How do courts work during the crisis?**

For most courts, except the federal ones, there are no physical hearings. Most of the courts are operating remotely with online submissions and video hearings.

As filing of any case or attending on behalf of a party requires a notarized power of attorney, similarly the notary offices (which is a department that falls under the courts) are now able to process local power of attorneys exclusively through video conferencing.

- **Are courts closed?**

Most of the courts are not physically accessible but operations are continuing online. Most operations with the exception of enforcement orders and some types of hearings are ongoing. You can register new claims and urgent applications and the courts are still issuing judgments.

- **Can courts / judges be contacted?**

Judges are responding to online applications. Hearings are held through video conferencing. However, we are yet to see if you can have a telephone or video conference with a judge.

- **Are documents served?**

Documents are still being served through emails.

However physical service when required has become quite challenging specially when it is against a company which is shut down due to an ongoing closure or selective remote operation.

- **How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?**

Those measures are still ongoing with online applications.

As those application are ex-parte they are proceeding without the need to serve the opposing side.

- **How do lawyers work during the crisis?**

All lawyers are working remotely in Dubai which is under directive that only certain limited activities can work from the office which do not include lawyers.

In other Emirates lawyers are able to still move around but are encouraged to conduct their work remotely.

- **How do banks work during the crisis?**

Bank are primarily working remotely with very limited physical interaction and access.

- **Does the crisis have an effect on insolvency law?**

So far we have not seen any effect on the insolvency laws.

2. FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS

What are the consequences of the Covid 19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- **Which measures introduced during the crisis will be withdrawn immediately?**

Most measures have a limited duration and are being extended as needed.

It is assumed that the stay on execution will be relaxed if not removed totally.

- **Which measures will remain in place?**

At this time there is no indication of which measures may be kept in place. However, there is discussions that social distancing and remote working may be encouraged to avoid the spread of the virus.

All evictions from properties have been suspended and is expected to be extended.

All crimes that have a fine or jail term penalty are encouraged to be sentenced to fines and this approach may be further extended.

- **Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?**

We believe that the cost of litigation may become a factor in filing the claims in a time where companies and individuals are becoming sensitive to their cash flow.

Furthermore, there may be a backlog in civil and criminal cases caused by the delays until the various systems adapt to the new remote methods of operations.

- **Do you expect a rise of new anti-corruption prosecutions after the crisis?**

We think there will be an increase in anti-corruption actions due to the fact that many organizations have had to move to remote work and access without all the necessary infrastructure and security in place which is leading to more chances of criminal acts to take advantage of that lack of security.

- **Will the ratio of third party funded matter rise?**

We expect a possible increase in third party funding which is still developing in the region.

The increase is expected to be due to liquidity shortage due to the economic situation and which may compel entities to explore other options to pursue their claims.

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