

**JANUARY 24, 2023**

For more information,
contact:

Ben Williams
+971 4 377 9946
bwilliams@kslaw.com

Kateryna Frolova
+971 4 377 9928
kfrolova@kslaw.com

King & Spalding

Dubai
Al Fattan Currency House
Tower 2, Level 24
DIFC | Dubai International
Financial Centre
P.O. Box 506547
Dubai, UAE
Tel: +971 4 377 9900

UAE Civil Procedure Sees Change

The Civil Procedure Law (Federal Law No. 42 of 2022) came into force on 2 January 2023 (“**New CP Law**”) and ushered in several fundamental changes to the UAE Civil Procedure, including (without limitation) in relation to: (i) service of proceedings; (ii) language of proceedings; (iii) appeals to the Court of Appeal; and (iv) appeals to the Court of Cassation. The New CP law replaces Federal Law No. 11 of 1992 on civil procedure. In summary, proceedings can now be served by various modern electronic methods, including video or voice calls, mobile text messages and smart applications, in addition to email and fax. Cases in the onshore courts in UAE being argued in English, as opposed to Arabic, is now a possibility. A process for obtaining permission to appeal first instance judgment has been introduced, where previously the right to appeal to the Court of Appeal was usually automatic. The ability to appeal as of right to the Court of Cassation remains, although the time limit for doing so has halved from 60 to 30 days.

Service of proceedings

The New CP Law introduces a new method for service of proceedings. Article 9(1) of the New CP Law enables a claimant or its process server agent to serve proceedings on a defendant by: (i) video or voice recorded calls; (ii) mobile text messages; (iii) smart applications; (iv) e-mail; (v) fax; or (vi) other technical means of communication. In the event that the claimant or process server agent serves the defendant by audio or video recorded calls, they are required by Article 9(2) to issue a report setting out “*the content, speed, and date of the call*”, as well as the details of the recipient of the call.

Before the New CP Law, claimants and process server agents often served proceedings by publishing the relevant details of a case in a UAE daily newspaper in Arabic. Now, if service by any of the methods set out in Article 9(1) is not possible, the Case Management Office or the competent judge may permit the claimant or process server agent to serve proceedings through publication in a foreign newspaper published in a foreign language, particularly where the intended defendant is a foreign national.



According to Article 11(2), service outside of the jurisdiction is deemed to be completed 21 working days from the date of receipt of the letter from the UAE's Ministry of Foreign Affairs (containing the relevant documents to be served) by the diplomatic mission in the relevant foreign state. This is a significant change from the previous regime, that required the claimant or process server agent to receive a report that service had been effected by the diplomatic mission.

Language of the Proceedings

Article 5 of the New CP Law provides that the President of the Federal Judicial Council or the head of the local judicial authority has the discretion to set English as the official language of a particular proceeding. This means that: (i) the trial will be conducted in English; (ii) the judgments and the decisions will be handed down in English; (iii) the parties will be able to submit pleadings and documents in English; (iv) witnesses will be able to testify in English; and (v) the lawyers will be able to make oral submissions in English also.

While Arabic will remain as the official language of the UAE onshore courts, Article 5 gives litigants, witnesses and lawyers the ability to be heard in English in certain cases at the discretion of the President of the Federal Judicial Council or the head of the local judicial authority. How frequently the discretion will be exercised remains to be seen. We anticipate that it will be an attractive new option for cases involving international parties and contemporaneous documentation, including contracts and correspondence, that are already in English.

Appeals to the Court of Appeal

In a shift from the previous regime that almost certainly guaranteed an automatic appeal process in every proceeding, the New CP Law empowers the Court of Appeal to filter appeals going forward. Pursuant to Articles 167(2) and (3) of the New CP Law, the Case Management Office will refer an appeal to the Court of Appeal for an "in chambers" (i.e. private) review. The Court of Appeal will conduct the review and issue a decision either rejecting or allowing the appeal to proceed (including by setting a date for a hearing to examine the merits of the appeal).

Appeals to the Court of Cassation

Article 178 of the New CP Law has halved the time limit for filing an appeal to the Court of Cassation from 60 days to 30 days. This change does not apply to: (i) appeals filed before 2 January 2023; (ii) proceedings where the time limit began prior to the New CP Law coming into force; and (iii) proceedings where judgments were issued prior to the New CP Law coming into force.

Summary

In the light of the fact that the New CP Law has been in force for less than three weeks, it is too early to determine the full impact of these changes on the UAE civil procedure going forward. We anticipate that parties and their legal representatives will be better able to appreciate the effect of the New CP Law in practice later this year. However, we do note that: (i) parties should be particularly conscious of the changes to the procedural time limits; and (ii) the New CP Law opens up the possibility of parties being represented by Anglophone lawyers in onshore courts, but it remains to be seen how frequently the President of the Federal Judicial Council and the head of the local judicial authority will exercise their discretion to allow certain proceedings to be conducted in English.



ABOUT KING & SPALDING

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,200 lawyers in 23 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered "Attorney Advertising." View our [Privacy Notice](#).

ABU DHABI	CHARLOTTE	FRANKFURT	LOS ANGELES	PARIS	SINGAPORE
ATLANTA	CHICAGO	GENEVA	MIAMI	RIYADH	TOKYO
AUSTIN	DENVER	HOUSTON	NEW YORK	SAN FRANCISCO	WASHINGTON, D.C.
BRUSSELS	DUBAI	LONDON	NORTHERN VIRGINIA	SILICON VALLEY	
