

Preparing for e-litigation in the UAE amidst Coronavirus (COVID-19) hindrances

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As travel is hindered, staff work from home and general work routines (domestic and global) are disrupted, parties to litigation should consider options for managing trials via e-litigation strategies and technologies pursuant to recent developments in Emirati legislation.

On 27 March 2019, Minister of Justice Decisions Nos. 260 and 259 of 2019 were issued to regulate e-litigation procedures.

Decision No. 260 of 2019 regulates electronic proceedings in civil procedures, whilst Decision No. 259 of 2019 does so for criminal procedures.

The Decisions regulate the following:

- Requests for application of e-litigation procedures instead of standard brick-and-mortar litigation.
- Electronic filing and electronic signing of pleadings and applications.
- Liaising with the case management office electronically.
- Electronic summons and notifications of parties.
- Virtual attendance of litigants, their representatives, witnesses, and experts.
- Virtual hearings and electronic minutes of the hearings.
- Confirmation of agreements and consents during virtual hearings.
- Submission of evidence and validation of evidence in virtual hearings.
- Appointment and reliance on translators for litigants for e-litigation procedures.

- Electronic filing of petition order requests, and petition order e-issuance.
- Electronic issuance of writs of execution (enforcement orders).
- Digital judgments (with digital signature by the presiding judge or Head of the respective circuit).

Prior to the Decisions regulating the process, e-litigation in the UAE was first introduced on 18 September 2017 with the issuance of Federal Decree No. 10 of 2017 (the “e-Trial Law”).

The e-Trial Law made amendments to the Civil Procedures Law issued by Federal Law No. 11 of 1992.

The e-Trial Law introduced in Title 6 in Book 3 of the Law under the name of ‘Use of Remote Communication Technology in Civil Procedures’ Articles 332 to 343 addressing the new e-Trial system.

Article 332 of the e-Trial Law defines the use of Remote Communication Technology in the Civil Procedures as “the use of audiovisual communication means between two parties or more for the purpose of achieving remote appearance and exchange of documents, including the lawsuit registry, procedures of declaration, trial and execution carried out through this technology”.

Article 334 of the e-Trial Law, regarding Appearance and Trial Procedures, states that “all the provisions concerning the collection of fees, registry, declaration, submission of documents, appearance, publicity, pleading, hearing of witnesses, questioning, deliberation, issuance of judgments, submission of appeals and execution through the procedures thereof set forth under the present Law and its amendments shall be deemed valid if carried out totally or partially through the Remote Communication Technology.”

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