UAE Ministry of Justice confirms enforcement of English Court judgments on principle of reciprocity

September 15, 2022

On 13 September 2022, Judge Abdul Rahman Murad Al-Blooshi, Director of International Cooperation Department of the Ministry of Justice, issued a communique to His Excellency Tarish Eid Al-Mansoori, Director General of the Dubai Courts, confirming the enforcement of judgments issued by English Courts based on the principle of reciprocity.

Extracts from the communique read as follows:

"…based on the Treaty between the United Kingdom of Great Britain and Northern Ireland and the United Arab Emirates on Judicial Assistance in Civil and Commercial Matters, and the desire to strengthen fruitful cooperation in the legal and judicial field;

Whereas, the aforementioned Treaty does not provide for enforcement of foreign judgments, and states that the judgments should be enforced according to the relevant applicable mechanism set forth in the local laws of both countries;

Whereas, Article (85) of the Executive Regulation of the Civil Procedures Law, as amended in 2020, stipulates that judgments and orders issued in a foreign country may be enforced in the State under the same conditions prescribed in the law of that country, and the legislator does not require an agreement for

judicial cooperation to enforce foreign judgments, and such judgments may be enforced in the State according to the principle of reciprocity; and

Whereas, the principle has been considered by the English Courts upon previous enforcement of a judgment issued by Dubai Courts by virtue of a final judgment issued by the High Court of the United Kingdom in *Lenkor Energy Trading DMCC v Puri* (2020) EWHC 75 (QB), which constitutes a legal precedent and a principle binding on all English Courts according to their judicial system,

Therefore, we kindly request you to take the relevant legal actions regarding any requests for enforcement of judgments and orders issued by the English Court, in accordance with the laws in force in both countries, as a confirmation of the principle of reciprocity initiated by the English Courts and assurance of its continuity between the English Courts and the UAE Courts."

Lenkor considered whether enforcement of a Dubai Court judgment would be in breach of English public policy on the argued grounds that "*it is contrary to public policy to permit the indirect enforcement (via a guarantee) of a contractual obligation that is illegal*".

The *Lenkor* court rejected that the underlying transaction must be considered as in breach of English public policy – but rather it is the judgment that must be found to breach English public policy.

The court found that there "*is no suggestion that the public policy which arises under the law of Dubai precludes the enforcement of the statutory cause of action. As the judge said, if that point was to be taken, it should have been taken in Dubai*".

And further that the "*degree of connection between the claim and the illegality must also be balanced against the strong*

public policy in favour of finality, and in favour of enforceability".

The communique by the Ministry of Justice confirming the enforcement of judgments issued by English Courts based on the principle of reciprocity provides confidence and judicial stability for creditors looking to enforce English Court judgments against debtors in the UAE.

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