

FROM VERDICT TO VICTORY: ENFORCING FOREIGN JUDGMENTS IN DUBAI

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The UAE has long been a hub for cross-border business and international investment, and that role has only deepened since Burford completed its first deal involving judgment enforcement in the region in 2018. Dubai in particular continues to be a key destination for global commerce and finance. Also, international conflicts, relaxation of UAE visa requirements and various other factors have led to an influx of ultra-high-net-worth individuals in recent years.

It is therefore unsurprising that judgment creditors are increasingly looking to recognize and enforce their foreign judgments there. From an international enforcement perspective, the Dubai courts have historically been considered unpredictable and opaque. However, based on our firsthand experience funding cases in the region, discussions with local firms and our analysis of local court data, this perception appears to be unwarranted — or at least outdated.

The UAE is a signatory to judicial cooperation treaties covering several Middle Eastern countries and it has bilateral arrangements in place with a number of other jurisdictions (including France, China, Kazakhstan and India) which govern the process for recognizing those judgments locally. Where no formal agreement exists, recognition and enforcement will be governed by the principle of reciprocity. We are aware of at least seven foreign judgments that have been recognized via this route in the last two years and where the lower court's decision has been upheld by the Dubai Court of Appeal or Cassation Court (Dubai's highest court). These include judgments from Canada, England, Switzerland, Russia, Singapore and the United States, with the Dubai courts also considering the recognition of judgments from jurisdictions such as Belarus, Palestine and the British Virgin Islands (BVI).



Requirements for recognition of a foreign judgment

For a foreign judgment to be recognizable in Dubai, it must meet the following criteria, codified in its civil procedure law and reinforced and endorsed in the case law:

- 1. UAE jurisdiction:** The UAE courts must not have exclusive jurisdiction over the dispute.
- 2. Foreign court jurisdiction:** The foreign court must have had (non-exclusive) jurisdiction to determine the dispute and the judgment must have been issued in accordance with all local laws and rules.
- 3. Finality and enforceability:** The judgment must be res judicata in the jurisdiction which rendered it (and a certificate to that effect will typically be required).
- 4. Proper service and representation:** The defendant must have been properly served and have had the opportunity to be represented.
- 5. No conflict:** The judgment must not conflict with a judgment or order previously issued by a UAE court and must not violate UAE public policy.

Recent success stories

The Dubai courts have shown a willingness to enforce a range of foreign judgments, from complex commercial disputes to personal matters. For example, the Dubai Cassation Court recently upheld the recognition of a summary judgment from Ontario, Canada, based in part on a restitution order from a New York securities fraud case. This ruling was significant from an international enforcement perspective in particular because the Dubai court agreed to enforce a judgment (the Ontario judgment) that was itself based on an earlier judgment (the New York order) because it still met all the criteria for enforcement of a foreign judgment, and there was clear participation from both parties. This approach to recognition goes further than we have seen a court willing to go in several other jurisdictions.

The Dubai Cassation Court has also upheld the recognition of an English family court judgment for the division of assets, which was consented to by both parties. The judgment debtor sought to resist recognition both on public policy grounds, by arguing that the couple had not been formally divorced under the laws of the country where they were married (not England) or under Islamic law, and also by contending that the Dubai courts had exclusive jurisdiction over the Dubai property covered by the division of assets order. The court held that there were no public policy issues because the defendant had consented to the English order and the Dubai courts did not have exclusive jurisdiction, and that the English judgment was not a new ownership claim, but rather the enforcement of an existing obligation.

Lessons learned from unsuccessful attempts at recognition

While the Dubai courts have recognized foreign judgments with a range of underlying causes of action, they do not appear willing to enforce foreign declaratory judgments or foreign bankruptcy orders. The Dubai Court of Appeal has recently refused to recognize:

- An application by a BVI court-appointed liquidator to liquidate a BVI company in Dubai, on the basis the BVI order was declaratory in nature.
- An application by a Russian Trustee in Bankruptcy to enforce a Russian bankruptcy order that included language permitting a worldwide search for assets and enforcement up to the value of the debt (\$31M), on the basis that a foreign bankruptcy proceeding cannot be enforced in the same way as a foreign judgment and requires a treaty or legislative provision.
- A judgment debtor's successful resistance to enforcement of a Polish judgment, on the basis that he was not properly served with the judgment or given sufficient opportunity to be represented (at the time of the original Polish proceedings, the claimant had been unable to locate the defendant, so the Polish court had appointed a judicial guardian to represent him in the proceedings. The Dubai court found that the Polish judgment did not expressly confirm that the defendant had been represented in accordance with Polish procedural law or that the requirements for service of process had been met, as seen in condition 4 above).

It is clear the Dubai courts also expect and will insist on strict and explicit adherence to the five criteria outlined above.



Legal finance can assist with asset recovery

Legal finance providers like Burford have a proven track record in successfully funding and managing multi-jurisdictional enforcement campaigns involving [sophisticated asset tracing and recovery strategies](#) in Dubai, the broader UAE and around the world. This includes funding the successful recognition and enforcement of foreign decisions in the UAE and vice versa. For example, when [Cessna Finance](#) faced complex and risky enforcement proceedings due to a UAE-based counterparty's default on aircraft leasing agreements, Burford was able to create a hybrid "money now, money later" assignment deal that gave Cessna immediate capital while transferring the cost, time and risk of the enforcement campaign to Burford.

Burford's global recovery and enforcement team routinely assists clients whose commercial litigation and arbitration matters require considerable resources and specialized legal expertise.

Burford offers bespoke legal finance solutions to support lawyers and their clients, including traditional litigation funding of fees and expenses as they are incurred and more tailored "money now, money later" assignment deals (such as in the Cessna case), where a client receives immediate capital while Burford assumes all enforcement responsibilities, including appointing specialized legal teams, conducting detailed asset tracing and managing international enforcement efforts.