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FRESH DIVORCE CLAIM FOLLOWING REJECTION BY A FOREIGN COURT: A RECENT DUBAI COURT RULING

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This alert provides a brief overview of a recent Dubai court ruling addressing whether a fresh claim for divorce on grounds of harm may be brought after similar claims were previously considered by foreign courts. It examines the factual background of the dispute, the court's approach, the relevant provisions of UAE law, and the practical significance of the ruling for cross-border family disputes.

This material is based on information from public sources and is for reference purposes only. It does not constitute advice or a legal opinion. If you have any questions regarding this alert, please contact us at: info@whitesquarepartners.com.

1. Background to the Dispute

The wife brought proceedings before the Dubai court seeking divorce on grounds of harm, together with related financial and child-related claims. In support of her case, she alleged, among other things, that her husband had failed to provide adequate support and maintenance, leaving her to bear household and child-related expenses herself.¹

The claimant had previously initiated court proceedings in Sudan and Egypt. In the Dubai proceedings, she argued that the harm she had suffered continued and intensified after the conclusion of those foreign proceedings.

The husband objected to the fresh claim on the basis that the dispute had already been considered by foreign courts. The court rejected that argument. According to the published materials, the court treated the Dubai claim as arising from subsequent developments in the factual circumstances rather than being confined solely to matters previously considered by the foreign courts.

2. The Court's Approach and Legal Significance of the Ruling

A legally significant aspect of the case is the distinction between the binding effect of a prior judgment and the question of whether a subsequent claim concerns the same dispute. Under Article 87 of Federal Decree-Law No. 35 of 2022 Promulgating the Law of Evidence in Civil and Commercial Transactions, the binding effect of a judgment extends to subsequent proceedings between the same parties acting in the same capacities where the same claim, subject matter and cause are involved. The court must take the binding

effect of the prior judgment into account irrespective of whether either party invokes it.²

From this perspective, harm arising or continuing after the conclusion of earlier proceedings may potentially alter the factual basis of a fresh claim. The issue is therefore not whether the earlier judgment loses its legal effect, but rather how the scope of the dispute previously determined should be defined and whether subsequent events fall within that scope.

The specific rules governing family relations also recognise that circumstances may change over time. Article 71 of Federal Decree-Law No. 41 of 2024 On the Issuance of the Personal Status Law provides that either spouse may seek divorce on grounds of harm that prevents the continuation of marital life. Under Article 72, where such a claim has been dismissed because the harm was not proven, a fresh claim may be brought if the conflict persists; the statutory time restriction does not apply where new harm arises or where new circumstances or facts emerge that the court considers material.³

At the same time, the ruling does not mean that earlier foreign judgments may simply be disregarded by UAE courts. Recognition and enforcement of a foreign judgment in the UAE are governed separately, including by Article 222 of Federal Decree-Law No. 42 of 2022 Promulgating the Civil Procedure Code, and are subject to the statutory conditions for recognition and enforcement. The available publications do not make it possible to determine whether the formal recognition or enforcement of the Sudanese or Egyptian judgments was considered in this case.⁴

¹ The conclusions regarding the content of the court judgment set out in this alert are based solely on information published in publicly available sources. According to the Dubai Courts database of published judgments, decisions in personal status cases are generally not publicly accessible. Accordingly, it is not possible to fully establish the procedural history of the case, the content of previous foreign judgments, or the precise legal characterization applied by the court.

² [Federal Decree by Law No. 35 of 2022 Promulgating the Law of Evidence in Civil and Commercial Transactions, Article 87](#)

³ [Federal Decree-Law No. 41 of 2024 On the Issuance of the Personal Status Law, Articles 71–72](#)

⁴ [Federal Decree by Law No. 42 of 2022 Promulgating the Civil Procedure Code, Article 222](#)

3. Practical Implications for Private Clients

The ruling is of practical relevance to both sides of a cross-border family dispute. For a party commencing fresh proceedings in the UAE, it is critical to substantiate circumstances that arose or continued after the earlier judgment. Conversely, for the opposing party, it may be material to demonstrate that the new claim in substance reproduces a dispute that has already been determined. When preparing a new claim, it is advisable to:

- obtain the full text of the foreign judgment and documents confirming its finality and legal effect, and assess the question of its recognition in the UAE (including the need for consular legalization and translation into Arabic);
- compare the subject matter and factual basis of the earlier and fresh claims and identify which circumstances were already examined by the foreign court;
- prepare a chronology of events before and after the foreign judgment and separately compile evidence of circumstances that arose or continued after it;
- separately assess related financial and child-related claims, as questions of jurisdiction, applicable law and the effect of the foreign judgment may differ depending on the nature of the particular claim.

4. Conclusion

The key conclusions that may be drawn from the published information are as follows:

- earlier foreign judgments refusing divorce were not treated as an automatic bar to a fresh claim because the court took into account subsequent developments in the factual circumstances;
- when assessing the binding effect of an earlier judgment, the key issue is not merely the similarity of the claims advanced, but whether their subject matter and factual basis are identical;
- the legal effect and possible recognition of a foreign judgment in the UAE, on the one hand, and the existence of new or continuing circumstances, on the other, are distinct issues requiring separate assessment.

In practical terms, this shifts the focus in cross-border family disputes to accurately defining the scope of the dispute already determined, establishing a clear chronology of subsequent events, and ensuring the quality of evidence relating to the period after the foreign judgment.

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