

Federal Decree-Law No. 40/2023 On Mediation and Conciliation in Civil and Commercial Disputes

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<i>Jurisdiction</i>	United Arab Emirates

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We, Mohamed bin Zayed Al Nahyan, President of the United Arab Emirates;

Having perused:

The Constitution;

Federal Law No. 1/1972 on the Competencies of Ministries and the Powers of Ministers, as amended;

Federal Law No. 17/2016 Establishing the Centers for Mediation and Conciliation in Civil and Commercial Disputes, as amended;

Federal Law No. 6/2021 on Mediation for the Settlement of Civil and Commercial Disputes; and

Based on the proposal of the Minister of Justice and the approval of the Cabinet,

Have issued the following Decree-Law:

Chapter One - General Provisions

Article 1 - Definitions

In applying the provisions of this Federal Decree-Law, the following words and phrases shall have the meanings indicated opposite each of them, unless the context of the provision requires otherwise:

- State: The United Arab Emirates.
- Council: The Federal Judicial Council.
- Department: The Federal Judicial Inspection Department.
- Centre: The Mediation and Conciliation Centre.
- Parties: the parties to the disputes submitted for Mediation or Conciliation.
- Mediation: An optional and alternative means for amicable settlement of civil and commercial disputes that have arisen or that may arise between the Parties to a legal relationship, whether contractual or non-contractual, in which they seek the assistance of a neutral third party (the Mediator), whether that Mediation is consensual or court-referred.
- Court-Referred Mediation: Mediation conducted to resolve a dispute after resorting to litigation, by virtue of a referral decision from the Competent Court at any stage of the case, whether proposed by the court with the Parties' consent or upon their request.
- Consensual Mediation: Mediation to which the Parties directly resort in order to resolve a dispute before resorting to litigation, in enforcing a Mediation Agreement.
- Mediation Agreement: A written agreement between the Parties with the aim of resorting to Mediation for the Settlement of a dispute, whether this agreement is made before or after the occurrence of the dispute.
- Mediator: Any natural or legal person entrusted by the Parties or the Centre with the task of Mediation to amicably resolve the dispute between them, provided that they are registered on the Mediators' Lists at the Centre.
- Mediators' Lists: Lists established by the Department or the local judicial authority, as the case may be, in which the names of registered Mediators are included.
- Private Mediator: Any natural or legal person entrusted by the Parties with the task of Mediation to amicably resolve the dispute between them, and not registered on the Mediators' Lists.
- Mediation Expenses: The administrative expenses of Mediation and the fees due to the Mediator for the Mediation process.
- Mediator Fees: The financial consideration due to the Mediator for performing their task.
- Competent Court: The subject-matter court competent to hear the lawsuit.
- Supervising Judge: The judge supervising the Centre.
- Conciliation: An alternative means for the amicable resolution of disputes between Parties, which is mandatorily resorted to before filing a case in the cases specified under Article (27) of this Decree-Law or while the case is heard before the court at the request of the Parties in other than these cases, in which they seek the assistance of a neutral third party (the Conciliator) to attempt to reach a Settlement Agreement signed by the Parties and binding on them.
- Conciliator: The person appointed or delegated in the Centre, who undertakes settlement of the dispute by Conciliation.
- Settlement: The reconciliation reached by the Parties through Mediation or Conciliation, and its minutes are ratified by the Supervising Judge.
- Settlement Agreement: The document prepared by the Mediator or the Conciliator and signed by the Parties, including the Settlement reached to resolve the dispute, in whole or in part, between them.
- Electronic Platform for Mediation and Conciliation: An electronic system through which all Mediation and Conciliation procedures are conducted.

Article 2 - Establishment of Centres

- 1- The Council or the chairman of the local judicial authority, as the case may be, may establish one or more centre(s) for Mediation and Conciliation within the jurisdiction of the first-instance courts. The decision to establish the Centre shall specify its administrative subordination and the entity in charge of supervision and control over it.
- 2- The chairman of the Council or the chairman of the local judicial authority, as the case may be, shall issue regulations governing the work of the centres, determining the geographical jurisdiction of each centre, in cases where multiple centres are established within the jurisdiction of a single first-instance court, or when one centre is assigned jurisdiction over multiple jurisdictions, as the case may be.
- 3- The Council or the local judicial authority may establish an Electronic Platform for Mediation and Conciliation, whose procedures and work system shall be issued by a decision of the chairman of the Council or the chairman of the local judicial authority, as the case may be.
- 4- Special centres for Mediation may be established or branches of foreign Mediation centres may be licensed. A decision shall be issued by the Cabinet based on a proposal from the Minister of Justice and after coordination with the local judicial authorities, specifying their work system, licensing conditions, issuing authority, and registration of Mediators, as the case may be.
- 5- The court or the local judicial authority, as the case may be, shall undertake formulating the general policies of Mediation and Conciliation centres and has the authority to supervise their work.

Article 3 - Service of Process

The methods of service of process specified in the Federal Civil Procedure Law shall apply to Mediation and Conciliation procedures, unless the Parties agree otherwise.

Article 4 - Remote Mediation and Conciliation

Both Mediators and Conciliators may hold Mediation and Conciliation meetings using electronic means and remote communication, in accordance with the regulations and procedures issued by the Minister, based on the approval of the Council or the chairman of the local judicial authority, as the case may be.

Article 5 - Confidentiality of Information

- 1- Mediation and Conciliation procedures are confidential, and neither they nor any documents and information submitted or agreements or concessions made by the Parties during them may not be invoked before any court or authority. The Centre, the Mediator, the Conciliator, the Parties, and anyone involved in the Mediation and Conciliation are prohibited from disclosing any information raised during the Mediation and Conciliation procedures, except with the consent of all Parties, or if it is required by law to report any crime within the scope of the task of the Mediation or Conciliation entrusted to them, as the case may be.
- 2- The rules of confidentiality and non-disclosure mentioned in paragraph (1) of this article do not apply to Settlement Agreements and the documents and instruments necessary for their enforcement.
- 3- In the event that the Mediator or Conciliator violates the rules of confidentiality stipulated in this article, the affected party may resort to the Centre to impose disciplinary penalties as provided for in Article (40) of this Decree-Law, without prejudice to the provisions of civil and criminal liability.

Article 6 - Prohibitions on the Mediator and Conciliator

The Mediator and Conciliator are prohibited from:

- 1- Acting as an arbitrator or expert in the dispute, or accepting to be an attorney in a dispute against any of the Parties regarding the subject matter of the dispute subject to Mediation or Conciliation, or anything arising from it, even after the completion of the Mediation or Conciliation procedures, unless the Parties agree otherwise regarding Mediation;
- 2- Giving testimony against any of the Parties to the dispute regarding the subject matter of the dispute subject to Mediation or Conciliation, or anything arising therefrom, even after the completion of the Mediation or Conciliation procedures, unless authorized by the concerned party or unless the Parties agree otherwise, except in cases where the testimony is related to a crime; and
- 3- Acting as a Mediator or Conciliator in a dispute where one of the Parties is a spouse or a relative up to the fourth degree by blood or marriage.

Article 7 - Disputes Previously Heard

- 1- Subject to Article (14) of this Decree-Law, Mediation shall not be resorted to in cases where Conciliation has been previously resorted to, in accordance with the provisions of this Decree-Law.
- 2- As an exception from the provision of Article (30) of this Decree-Law, a dispute shall not be referred to Conciliation, as long as Mediation has been previously resorted to for Settlement of its subject matter, in accordance with the provisions of this Decree-Law.

Chapter Two - Mediation for the Settlement of Civil and Commercial Disputes

Section One - Scope of Application

Article 8

1- Mediation may be conducted in all civil and commercial disputes that are capable of Settlement without conflicting with the laws in force or the public order and morals in the State, subject to the provision of Article (28) of this Decree-Law, and without prejudice to the provisions of the local laws that regulate Mediation.

2- Mediation may deal with the subject matter of the dispute as a whole or a part thereof.

3- The provisions of Mediation stipulated in this chapter shall apply in the following cases:

- a- If Mediation procedures are conducted within the State; and
- b- If Mediation is conducted for an international commercial dispute outside the State, and the Parties agree to subject it to the provisions of this Decree-Law.

Article 9 - Mediation Agreement

1- A Mediation Agreement may be made in one of the following forms:

- a- It may be made prior to the occurrence of the dispute, whether independently or included in a certain contract regarding all or some of the disputes that may arise between the Parties; or
- b- It may be made after the occurrence of the dispute, even if a lawsuit has been filed in relation thereto.

2- The Mediation Agreement may only be made by a natural person who has legal capacity to dispose of rights, or by the representative of a legal person, who is authorized in concluding a Mediation Agreement. Otherwise, it shall be void. The Mediation Agreement shall not terminate upon the death of one of the Parties or the expiration of their legal personality, and it may be enforced in such a case by or against the legal successor of that party, unless the Parties agree otherwise.

3- The Mediation Agreement shall be written and signed by the Parties thereto, whether in an official or informal contract, or included in their exchanged letters or other written means of communication, or by electronic message in accordance with the provisions of the legislation regulating electronic transactions in the State, or recorded in judicial minutes before the Competent Court, whether the document containing it is in paper or electronic form, otherwise it shall be void.

4- Any explicit reference in a written contract to the provisions of a model contract or another document containing a Mediation clause shall be deemed a written Mediation Agreement, provided that this reference is clear in considering this clause as part of the contract.

5- The Mediation Agreement shall specify the subject matter of the dispute subject of Mediation, and appoint the Mediator or specify the method of their appointment. The agreement may also provide that the Mediation procedures be conducted in a language other than Arabic, in which case the documents and submissions shall be translated into Arabic in accordance with the provisions of the Federal Law Regulating the Profession of Translation.

Article 10 - Mediators' Lists

1- The Department or the local judicial authority shall maintain lists for registering Mediators from amongst those registered in the experts' schedule at the Ministry of Justice or with the local judicial authorities, as the case may be. Expert Mediators named by a decision of the Council or the chairman of the local judicial authority, as the case may be, may also be registered therein. They shall be selected from amongst retired members of the judiciary, lawyers registered in the schedules of practicing and non-practicing lawyers who have practiced the profession for a period of not less than five (5) years prior to their registration in the non-practicing lawyers' schedule, and other highly qualified experts and international experts in the legal and business fields, who are known for their expertise, integrity and impartiality.

2- The conditions, procedures and periods of registration and renewal in the Mediators' Lists, and selection and removal of Mediators, shall be determined by a decision of the Council or the chairman of the local judicial authority, as the case may be.

Section Two - Consensual Mediation

Article 11 - Resorting to Consensual Mediation

1- In enforcing the Mediation Agreement, the Parties may directly resort to the Center to settle the dispute between them, before filing a lawsuit.

2- Subject to the provisions of Article (9) of this Decree-Law, the Mediation Agreement shall specify the language of Mediation and its subject matter, appoint the Mediator(s) or specify the method of their appointment, and determine their fees and the party liable therefor, otherwise the agreement shall be void.

3- The initiation of Consensual Mediation procedures interrupts legal and judicial deadlines, which only resume upon the completion of the Mediation, unless it is concluded by the Parties signing a Settlement Agreement.

Article 12 - Procedures for Consensual Mediation

1- The application shall be submitted on the designated form to the Supervising Judge, accompanied by the Mediation Agreement and any documents related to the subject matter of the dispute.

2- The application shall include the following:

- a- The wish of one or all of the Parties to resort to Mediation, and the applicant's undertaking to attend the sessions set for conducting it and provide the appointed Mediator with necessary information and documents regarding the dispute referred to Mediation;
- b- The subject matter of the Mediation;
- c- The appointment of a Private Mediator in accordance with the Mediation Agreement. The Mediator may be chosen from amongst those registered in the Mediators' Lists; and
- d- The agreed-upon Mediation period, which shall not exceed three (3) months from the date on which the Mediator accepts their assignment, and it may be renewed for a similar period, only once, by a decision of the Supervising Judge based on an agreement made between the Parties in accordance with the same conditions stipulated in Article (9) of this Decree-Law.

3- Subject to the provisions of Article (3) of this Decree-Law, the Center shall notify the other Parties of the request for enforcement of the Mediation Agreement, and also notify the Private Mediator, if appointed, of the agreement.

4- The Supervising Judge shall have the same powers as the Competent Court in terms of assessing the Mediation Expenses, appointing the Mediator, receiving reports from the Mediator, and approving the Settlement Agreement, as stated in Section Three of Chapter Two of this Decree-Law.

5- The provisions and procedures stipulated in Section Three of Chapter Two of this Decree-Law shall apply to Consensual Mediation in relation to matters for which there is no special provision in this Section.

Article 13 - Effects of Resorting to Consensual Mediation

1- The court before which a case is filed regarding a dispute brought before a Mediator in enforcing the Medication Agreement, shall decide suspension of the case until the completion of the Mediation procedures, if the defendant urges therefor before making any request or submission on the merits, unless the court finds that the Mediation Agreement is void or impossible to be enforced.

2- The filing the case referred to in paragraph (1) of this article shall not preclude the initiation or continuation of Consensual Mediation procedures.

Section Three - Court-Referred Mediation

Article 14 - Decision for Referral to Mediation

1- As an exception from Article (7) of this Decree-Law, the Competent Court may issue a decision to refer the dispute to Mediation at any stage of the case, either upon its proposal with the consent of the Parties, or based on their request, or in enforcing a Mediation Agreement.

2- The Competent Court shall mention in the decision for referral to Mediation the following information:

- a- The Parties' consent to resort to Mediation, their undertaking to attend the set sessions, and provide the appointed Mediator with the information and documents related to the dispute referred to Mediation;
- b- Subject matter of the Mediation;
- c- The Mediation period, provided it does not exceed three (3) months from the date of notifying the appointed Mediator of the assignment, and it may be renewed for a similar period, only once, by a decision of the Competent Court upon the request of the appointed Mediator and with the consent of all Parties; and
- d- The initial Mediation Expenses and how they are shared between the Parties.

3- Referral decisions issued by the Competent Court cannot be appealed by any ordinary or extraordinary means of appeal.

4- Legal and judicial deadlines shall be interrupted from the issuance of the referral decision and only resume upon the completion of Mediation, and the Competent Court may, during the Mediation period, take necessary measures and procedures to protect the rights of the Parties, and issue such urgent or interim decisions as it sees necessary.

5- The Competent Court shall schedule a session for hearing the case before it after the completion of the Mediation.

Article 15 - Appointment of a Private Mediator

1- If the Mediation Agreement designates a Private Mediator, the Competent Court shall take this into consideration when issuing the referral decision, and the Centre shall notify the Mediator of the referral decision within five (5) working days from the date of issuance of the decision.

2- The Private Mediator shall sign a document indicating their acceptance of the Mediation assignment and confirming their neutrality and independence towards the Parties and the subject matter of the dispute, and not having expressed their opinion on the subject matter of the dispute, within three (3) working days from the date of notifying them. During the Mediation process, the Mediator shall inform the Centre in writing, electronically or by hand, of any facts or circumstances that have arisen or may arise, which could lead one of the Parties to question their neutrality or independence, in which case, the procedures stipulated in paragraph (2) of Article (16) of this Decree-Law shall be followed.

3- The Private Mediator may determine their fees by agreement with the Parties, and if the dispute is resolved by a Settlement Agreement, the claimant shall recover the legal fees paid by them as provided for in paragraph (2) of Article (26) of this Decree-Law.

Article 16 - Appointment of a Mediator from the Mediators' Lists

1- If the Mediation Agreement does not designate a Private Mediator, or if the Private Mediator refuses to accept the assignment, the Competent Court shall instruct the Parties to appoint another Mediator within such period as it specifies. If this is not possible, the Competent Court shall appoint one or more Mediator(s) from amongst the names included in the Mediators' Lists, and the Parties shall be notified thereof within a period not exceeding five (5) working days from the date of the referral decision. The Parties shall agree with the appointed Mediator on their fees within three (3) working days from the date of notifying them of the referral decision.

2- If any of the Parties object to the appointed Mediator and request their recusal, or if the Mediator is disqualified, recuses themselves, dies, or is unable to continue their assignment for any reason during any stage of the Mediation process, the Competent Court shall appoint another Mediator from amongst those registered in the Mediators' Lists within a period of five (5) working days from the date of accepting the recusal of the Mediator or from the date of their disqualification, self-recusal, death or notification of their inability to continue their assignment.

3- In all cases, the appointed Mediator shall adhere to the rules of neutrality and independence towards the Parties and the subject matter of the dispute.

Article 17 - Self-Recusal, Disqualification and Incompetence of the Mediator

1- The Mediator shall, on their own initiative, refrain or recuses themselves from proceeding with the Mediation, if there is any reason between them and one of the Parties to the dispute that makes them feel uncomfortable, or due to which they would most likely be unable to proceed with Settlement without having a bias towards one of the Parties, unless otherwise agreed.

2- Any one of the Parties may request the Competent Court to disqualify the Mediator in any of the following cases:

- a- If there is a reason that undermines the Mediator's neutrality, impartiality or independence towards any of the Parties or regarding the subject matter of the dispute;
- b- If the Mediator is unable to perform their assignment, fails to proceed therewith, or discontinues it in a manner that causes undue delay in the procedures, or is found incompetent; or
- c- If the Mediator breaches the duty of confidentiality stipulated in Article (5) of this Decree-Law.

3- The decision issued by the Competent Court is not subject to appeal by any means of appeal.

Article 18 - Mediation Procedures

1- The Mediator shall notify the Parties to the dispute of the Mediation sessions and inform them or their legal representatives of their date and place, through any of the prescribed legal means of service of process, including electronic means.

2- The Parties to the dispute shall attend the Mediation sessions in person or be represented therein by their legal representatives by virtue of special powers of attorney. If one of the Parties is a legal person, their legal representative or special attorney shall attend. The Parties may also seek the assistance of advisers to accompany them during the sessions. The Mediator may determine the number of attendees accompanying each party, as they deem appropriate for the conduct of the Settlement process, taking into account the circumstances and nature of the dispute. Parties not concerned with the dispute may not attend the Mediation sessions except with the consent of all Parties.

3- Each party to the dispute shall submit a brief memorandum to the Mediator well before the first session that the Mediator shall set, including a summary of their allegations or submissions, accompanied by the documents and evidence they rely on. These memoranda and documents shall not be exchanged between the Parties.

Article 19 - Mediation Sessions

1- The Mediator may discuss the dispute with the Parties collectively during the Mediation sessions, consult with them regarding the subject matter of the dispute, their requests and submissions, and take such actions as they deem appropriate to

reconcile their views with the aim of reaching an amicable solution. To this end, they may express their opinion if requested by the Parties, assess the documents and evidence presented by them, and indicate the judicial principles related to the dispute, and other actions to facilitate the Mediation process.

2- The Mediator may hold separate sessions with each party to the Mediation, and they are not entitled to disclose to the other party any information exchanged in such sessions without a written consent from the party disclosing it to them.

3- In multi-party disputes, the Parties may, with the approval of the Competent Court, agree to continue the Mediation procedures even if one of them refrains from participating therein in any way, unless such refrainment affects the proper conduct of the procedures and the Settlement of the dispute between them.

Article 20 - Powers of the Mediator

1- The Mediator does not have the authority to conduct investigations. However, the Mediator may, in agreement with all Parties and for the purposes of Mediation, hear third parties, provided that they agree.

2- Subject to Article (3) of this Decree-Law, the Mediator shall, for the purpose of performing their work, have access to papers, documents, records, and other evidence, and to accept any evidence presented to them by the Parties, unless it is inconsistent with public order or morals, without being bound by the laws of civil procedure, advocacy or evidence, and without being bound by official working hours.

3- The Mediator may seek the assistance of experts registered in the experts' schedule of the Ministry of Justice or the local judicial authorities, as the case may be, or those agreed upon by the adversaries in the Settlement of disputes brought before them, to provide technical and technological expertise. The Mediator shall determine the expert's fees and the work required from them and give their opinion thereon. The Competent Court shall determine the expert's fees in case of disagreement, all in accordance with the provisions of the Law on Evidence in Civil and Commercial Transactions.

Article 21 - End of Court-Referred Mediation

1- Mediation shall end in any of the following cases:

- a- If the Parties sign a Settlement Agreement;
- b- If the Parties agree to end the Mediation before reaching a Settlement Agreement for any reason;
- c- If one of the Parties informs to the Mediator or the Centre of their wish to participate in or continue Mediation;
- d- If the Mediator notifies the Centre, in writing or electronically, that the Mediation is futile and that there is no possibility of reaching a resolution to the dispute;
- e- If the Mediator notifies the Centre, in writing or electronically, that the Mediation has been ended due to the absence of any of the Parties from two consecutive Mediation sessions without excuse; and
- f- If the Mediation period expires without being renewed.

2- In all cases, the Mediator shall, upon the end of Mediation, deliver to each party any memoranda and documents they presented, and they may not retain them or copies thereof, and shall send a written or electronic report to the Centre on the result of the Mediation within three (3) working days from the date of ending the Mediation for any reason. The Centre shall notify the Parties and the Competent Court, within three (3) days, of the report and the result of the Mediation.

Article 22 - Failure to Reach a Settlement

If the Mediator fails to reach a Settlement in the dispute for any reason during the period given to them by the referral decision, they shall submit a report to the Centre indicating the failure of the Settlement and the extent of compliance of the Parties and their attorneys with attendance at the set sessions, and the Parties shall be briefed on what has been done in relation thereto. The dispute file shall be referred to the Competent Court, and in this case, the Competent Court shall send the case back to the sessions for reconsideration, without the need for a new notice.

Article 23 - Ratification of the Settlement Agreement

1- If the Parties reach a Settlement Agreement upon the conclusion of the Mediation, wholly or partially, the Mediator shall submit a report thereon to the Center, attaching thereto the Settlement Agreement signed by the Parties for ratification. The Center shall send the report and the agreement to the Competent Court within three (3) working days.

2- The Competent Court shall ratify this agreement and issue a decision to end the dispute, wholly or partially, as the case may be, at a session to be scheduled within seven (7) working days from the date of its receipt of the Settlement Agreement. After its ratification, the agreement shall become a writ of execution and an exequatur shall be affixed thereto upon the request of all Parties or one of them, in light of the terms of the agreement submitted to it, and shall be executed according to the procedures stipulated in the Federal Civil Procedure Law.

Article 24 - Objection to the Settlement Agreement

1- Objection to the ratified Settlement Agreement and the decision to end the judicial dispute can only be made by filing an annulment case before the court or by arguing for annulment during the consideration of the request for ratification of the agreement. The party seeking annulment shall prove one of the following reasons:

- a- If one of the Parties to the Settlement Agreement lacked legal capacity or had diminished capacity at the time of its conclusion;
- b- If there was no Settlement Agreement or if the agreement was void or voidable, or if it was made after the expiry of the Mediation period; or
- c- If one of the Parties was unable to present their defence due to invalid service of process or notification of the Mediation procedures or due to them not having been aware thereof for any other reason beyond their control.

2- The judgment issued by the court in the annulment case shall be final and can only be appealed through cassation.

3- The annulment case shall not be heard after the lapse of thirty (30) days from the date of notifying the party seeking annulment of the decision to end the judicial dispute.

4- As a result of the judgment for annulment, the ratified Settlement Agreement shall be wholly or partially null and void, depending on whether the annulment is whole or partial. If a judgment has been issued to interpret the part decided to be annulled, it shall consequently be null and void.

5- Unless otherwise agreed by the Parties, the Mediation Agreement shall remain valid in accordance with the provisions of this Decree-Law after the annulment of the ratified Settlement Agreement.

Article 25 - Binding Force of the Ratified Settlement Agreement

Subject to the provisions of Article (24) of this Decree-Law, the ratified Settlement Agreement shall be binding on the Parties, and they may not retract therefrom. It shall have the same binding force as court judgments and shall prevent re-bringing the same dispute, in terms of the merits and reasoning, between the same parties before courts. The court shall, on its own motion, rule for such binding force.

Article 26 - Mediation Expenses

1- As an exception to Article (29) of this Decree-Law, the Parties shall pay the initial Mediation Expenses in full directly to the Centre before commencing the Mediation procedures, as stated in the referral decision.

2- Upon completion of the Mediator's assignment and them reaching a full Settlement of the dispute, each party shall be entitled to a refund of the judicial fees paid, and they shall be entitled to half of the judicial fees paid, if the Settlement is made for a part of the subject matter of the dispute.

3- Subject to paragraph (3) of Article (15) and paragraph (1) of Article (16) of this Decree-Law, the Competent Court shall, in all cases, determine the final Mediation Expenses that have not been agreed upon and for which the Parties are liable in an order on a petition. The expenses shall be divided and shared between the Parties equally or in proportion to their respective interests in the case, as determined by the court. The court may also hold one party liable to pay the entire expenses, and authorize the Private Mediator to receive the amounts due to them, which are deposited in the court's treasury.

4- If the Mediator fails to reach a Settlement in the dispute, the Competent Court shall, in an order on a petition, hold the Parties liable to pay the final Mediation Expenses as stated in the Mediation Agreement and the referral decision. The order on a petition shall be issued at the request of the Parties or the Mediator, and shall be kept in the same Mediation file. The Competent Court may order the party responsible for the failure of the Mediation due to their non-attendance of its sessions to pay the full Mediation Expenses.

5- Each of the Parties and the Mediator may complain the estimation order within five (5) working days from the date of being notified thereof. The complaint shall be made by a report to be filed with the Case Management Office of the Competent Court, and it shall result in stay of execution of the estimation order. This complaint shall be resolved by another judge or circuit in the Competent Court after hearing the statements of the complainant, within a period not exceeding seven (7) working days from the date of the complaint report. The decision issued on the complaint shall be final and not subject to appeal by any means of appeal.

Chapter Three - Conciliation of Civil and Commercial Disputes

Section One

Article 27 - Scope of Application

1- Subject to the provisions of Article (28) of this Decree-Law, the Centre is exclusively competent to conciliate the following civil and commercial disputes:

- a- Disputes whose value does not exceed five million (5,000,000) dirhams; and
- b- Disputes between spouses or relatives up to the fourth degree, regardless of their value.

2- The adversaries may agree to resort to the Centre for conciliation of civil and commercial disputes whose value exceeds five million (5,000,000) dirhams, whether before a case is filed or while it is being heard.

Article 28 - Disputes not Eligible for Conciliation

The following disputes do not fall within the jurisdiction of the Centre:

- 1- Urgent and interim orders and cases;
- 2- Cases to which the government is a party;
- 3- Rental cases heard before special rental dispute committees;
- 4- Labor cases;
- 5- Personal status cases; and
- 6- Any other cases decided to be heard before a centre, committee or other entity of similar jurisdiction.

Article 29 - Fees

No judicial fees shall be incurred for disputes and applications submitted to the Centre.

Article 30 - Consequences of the Centre's Jurisdiction for Conciliation

1- Any case mandatorily falling within the Centre's exclusive jurisdiction in accordance with the provisions of paragraph (1) of Article (27) of this Decree-Law may not be filed in courts where a centre is established, except after being presented to the Centre and a statement is issued regarding what has been done in relation thereto.

2- If the Competent Court refers a case heard before it to the Centre based on the agreement of the adversaries, and the value of the case exceeds five million (5,000,000) dirhams, the president of the court may refund the fees paid before it in case the dispute is settled by conciliation. If the Centre decides to refer the case back to the court, the fee previously paid shall suffice.

3- All legal and judicial deadlines prescribed in the laws in force in the State shall be interrupted from the date of filing the dispute with the Centre, and these deadlines shall not resume until the completion of the conciliation.

Section Two - Appointment, Competencies and Obligations of Conciliators

Article 31 - Conditions for the Appointment of Conciliators

The conditions for the appointment and qualification of Conciliators shall be determined by a decision of the chairman of the Council or the chairman of the local judicial authority, as the case may be, and shall include the following conditions:

- 1- Not having lost capacity or convicted of a crime against honour or honesty, even if they have been rehabilitated;
- 2- Being known for their integrity, neutrality and expertise; and
- 3- Having successfully passed the prescribed courses and examinations specified by a decision of the Council or the chairman of the local judicial authority, as the case may be.

Article 32 - Decision to Appoint Conciliators

1- The appointment or delegation of Conciliators shall be made by a decision of the Minister or the chairman of the local judicial authority, as the case may be.

2- The Cabinet or the competent local authority shall issue a special system for the salaries of appointed and delegated Conciliators based on the proposal of the Council or the chairman of the local judicial authority.

3- The appointed or delegated Conciliators shall take the legal oath to honestly and faithfully perform their work before the president of circuit in the competent judicial authority or whomever he delegates.

Article 33 - Conciliation Procedures

1- The Parties shall attend the Conciliation sessions in person or be represented therein by their legal representatives, and the Conciliator shall determine the date of each session and notify the Parties to the dispute or their attorneys of its date and place.

2- The Conciliator shall meet with the Parties in the set sessions and discuss with them the subject matter of the dispute, their requests, and submissions, and shall take such actions as they deem appropriate to reconcile their views with the aim of reaching an amicable solution to the dispute. To this end, they may express their opinion and assess the documents and evidence presented by them, and refer to judicial principles, and other actions that facilitate the Conciliation process.

3- Subject to the provision of Article (3) of this Decree-Law, the Conciliator shall, for the purpose of performing their work, have access to papers, documents, records, and all evidence and take such actions as they deem appropriate without being bound by the Civil Procedure Law, the Law on Advocacy, the Law on Evidence in Civil and Commercial Transactions, and official working hours.

4- The Conciliator does not have the authority to conduct investigations. However, they may, in agreement with all Parties and for the purposes of Conciliation, hear third parties, provided that they agree.

5- The Conciliator may, upon agreement between the Parties, seek the assistance of registered experts or those agreed upon by the adversaries in the Settlement of disputes brought before them, to provide technical and technological expertise. The Conciliator shall determine the expert's fees and the work required from them and give their opinion thereon in accordance with the provisions of the Law on Evidence in Civil and Commercial Transactions.

Article 34 - Self-Recusal, Disqualification and Replacement of the Conciliator

1- The Conciliator shall recuse themselves from performing their assignment, if they feel uncomfortable, or if they are a relative of any of the Parties up to the fourth degree.

2- The Supervising Judge may disqualify the Conciliator and replace them upon the request of any of the Parties, and he shall decide on the request within three (3) working days from the date of its submission, in any of the following cases:

- a- If the Conciliator is unable to perform their assignment;
- b- If the Conciliator fails to proceed with their assignment or discontinues it in a manner that causes undue delay in the procedures, and has not recused themselves; or
- c- If the Conciliator has a connection to any of the Parties that may raise doubts about their neutrality or independence, whether before or during the Conciliation procedures.

3- The Supervising Judge may, on his own initiative, issue a decision to disqualify and replace the Conciliator, if any of the cases of their disqualification stated in paragraph (2) of this article occurs.

4- In all cases, the decision issued by the Supervising Judge to disqualify or replace the Conciliator is not subject to appeal by any means of appeal.

Article 35 - Conciliation Period

The Centre works to conciliate the dispute within a maximum of twenty-one (21) working days from the date of the Parties' appearance before it, and it may be extended for another similar period by a reasoned decision from the Conciliator, unless the Parties agree on another additional similar period.

Section Three - End of Conciliation Procedures

Article 36 - Cases of End of Conciliation

Conciliation procedures shall end in any of the following cases:

- 1- The Parties' agreement on a Settlement Agreement;
- 2- Notification by one or all of the Parties of their wish not to continue with the Conciliation procedures;
- 3- Notification by the Conciliator to the Parties that there is no feasibility to continue with the Conciliation procedures due to their non-seriousness or for any other reason; or
- 4- Expiry of the period set for Conciliation.

Article 37 - Failure of Conciliation

If the dispute cannot be resolved through Conciliation due to the absence of any of the Parties for any reason or failure to reach a Settlement, the Parties shall be briefed on what was done in relation thereto, and the dispute file shall be referred to the Competent Court.

Article 38 - Reaching Settlement before the Conciliator

1- If a Settlement is reached between the Parties before the Conciliator, either in whole or in part, this shall be recorded in a minutes signed by the Parties and the Conciliator. These minutes shall be ratified by the Supervising Judge, have the force of a writ of execution and the same binding force of court judgments, and are not subject to appeal by any means of appeal.

2- Upon ratification, the minutes shall be affixed with an exequatur upon the request of all or any of the Parties, free of charge, and shall be executed in accordance with the procedures stipulated in the Federal Civil Procedure Law.

Chapter Four - Final Provisions

Article 39 - Code of Professional Conduct for Mediators and Conciliators

The Council or the chairman of the local judicial authority, as the case may be, shall issue a code of professional conduct for Mediators and Conciliators.

Article 40 - Disciplinary Actions

- 1- In the event that the Mediator or Conciliator violates any of their obligations stipulated in this Decree-Law, the affected party may resort to the Centre to take the necessary disciplinary actions against them, without prejudice to their civil and criminal liability.
- 2- In relation to disciplining Mediators, the same disciplinary actions and penalties provided for in the Federal Law Regulating the Profession of Experts before Judicial Authorities or the local laws governing expert work, as the case may be, shall be applied.
- 3- The Minister of Justice shall, based on the approval of the Council or the chairman of the local judicial authority, as the case may be, issue a special system containing the controls and actions for disciplining Conciliators.
- 4- Conciliators shall be subject to the disciplinary penalties provided for in the Law on Human Resources in the Federal Government or the local laws governing public service, as the case may be.

Article 41 - Provisions Governing the Work of Private Mediators

The provisions governing the work of Mediators in this Decree-Law shall apply to Private Mediators, in relation to matters for which there is no special provision in the Mediation Agreement.

Article 42 - Executive Decisions

The Minister shall, with the approval of the Council or the chairman of the local judicial authority, as the case may be, issue the necessary decisions to implement the provisions of this Decree-Law.

Article 43 - Repeals

- 1- Federal Law No. 17/2016 Establishing the Centres for Mediation and Conciliation in Civil and Commercial Disputes, as amended, shall be repealed.
- 2- Federal Law No. 6/2021 on Mediation for the Settlement of Civil and Commercial Disputes shall be repealed.
- 3- The regulations and decisions issued in implementation of the provisions of Federal Law No. 17/2016, as amended, and Federal Law No. 6/2021, shall continue to be in effect until the necessary regulations and decisions are issued for implementing the provisions of this Decree-Law, provided that they do not conflict with its provisions.
- 4- Any provision that contradicts or conflicts with the provisions of this Decree-Law shall be repealed.

Article 44 - Publication and Entry into Force of the Decree-Law

This Decree-Law shall be published in the Official Gazette and shall enter into force ninety (90) days from the day following its publication.

Issued at the Presidential Palace, Abu Dhabi:

On: 13 Rabi Al-Awwal 1445 AH

Corresponding to: 28 September 2023 AD

Mohamed bin Zayed Al Nahyan
President of the United Arab Emirates