



A United Arab Emirates Perspective on International Family Law Relocation

Presented by: Dr. Hassan Elhais and Mrs. Awatif Al Khouri

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Legal Framework in the UAE

The Family matters within the UAE are regulated by:

- Federal Law No. 28 of 2005 (for Muslims until April 15, 2025)
- Federal Decree Law No. 41 of 2024 (for Muslims from April 16, 2025)
- Federal Decree-Law No. 41 of 2022 (for non-Muslims in the UAE except Abu Dhabi)
- Abu Dhabi Law No. 14 of 2021 (for non-Muslims in Abu Dhabi)

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Recognition and Enforcement of Foreign Relocation Decisions

- **Hague Conventions:** UAE has not signed the Hague Conventions of 1980 and 1996
- **Enforcement of foreign court orders** requires compliance with UAE Civil Procedure Code (Article 222), particularly the court will check the following:
 - Foreign court's jurisdiction
 - Compliance with foreign law
 - Due process and summoning of parties
 - Res judicata and consistency with UAE law and public policy

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Parental Abduction

Scenario 1

If the parties are resident of the UAE and one of the spouses abducts the child to another country. The following legal actions may be taken:

- The prejudiced party may file a court case to claim custody of the child.
- Upon getting custody court order from the local courts, the custodian shall apply for criminal case for child abduction under the UAE Penal Laws.
- After filing a criminal case, the custodian has the right to approach the Interpol to seek extradition request as per Federal Law No. 39/2006 on International Judicial Co-operation in Criminal Matters.

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Parental Abduction Scenario 2

In case of child abduction from other country to the UAE. The following legal actions may be taken:

- File a recognition of foreign custody order if there is a bilateral treaty or reciprocity.
- File a new court case if special circumstances exist.

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Settlement Agreement

- **Settlement Agreement:** Prior to the child entering the UAE, parents can sign a family agreement before the UAE courts replicating the foreign court orders.
- **Enforcement:** This agreement is enforceable as a local judgment.

Relocation Procedures in the UAE

Permanent Relocation:

- Requires written consent of both parents.
- Only fathers could previously file relocation cases; new law (effective April 2025) allows both parents to apply for relocation.

Short Travel:

- Both parents can impose travel bans.
- New law allows each parent to travel with the child for up to 60 days per year.

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Factors Considered in Relocation Cases

Relocating Parent:

- Financial circumstances
- Psychological circumstances
- Immigration status
- Employment prospects
- Proximity to family

Child's Best Interests: Primary consideration

Objections to Relocation: Potential harm to child or non-relocating parent

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Single vs. Several Procedures

- **Single Procedure:** UAE allows filing one family court case with various claims (custody, divorce, relocation, etc.)

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Principles of the Washington Declaration

Available Provisions:

- Consent for relocation
- Consideration of child's best interests
- Visitation rights for non-custodial parent
- Court intervention in case of disagreement
- Mediation through family guidance department

Unavailable Provisions:

- Direct judicial communication
- UAE has not signed the Hague Conventions

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Impact of Domestic Violence Allegations

Federal Decree-Law No. 13/2024 on Protection from Domestic:

- Stricter punishments for offenders.
- It includes psychological, sexual, and economic violence.
- Protection orders and rehabilitation for perpetrators.

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Recommendations for Improvement

Key Improvements:

- Implementation of new laws (effective April 2025) to allow both parents to file relocation applications.
- Equal treatment of men and women in relocation cases.
- Further testing of new laws post-April 2025.

Summary:

- UAE's legal framework for family relocation puts emphasis on child's best interests and parental rights.

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Thank you

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