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Case Study

PROCEDURAL RULES FOR SMART TRIALS IN THE UAE: ASPIRATIONS AND REALITY

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ABSTRACT

Background: *This study analyses the procedural rules governing smart trials (digital litigation) in the UAE, with a particular focus on their current implementation and potential future development. It explores the legal and technical underpinnings of digital litigation and evaluates the compatibility of the UAE's framework with the goals of procedural efficiency and access to justice.*

Methods: *Structured into two chapters, this study first examines the conceptual foundations of smart trials and their modes of initiation, before turning to an analysis of litigation processes conducted via digital means. It employs a descriptive-analytical methodology to evaluate the technical feasibility and legal validity of these practices. It specifically focuses on Ministerial Decision No. 260 of 2019, assessing its framework for remote civil litigation and the extent to which it integrates electronic communication and procedural digitisation.*

Results and Conclusions: *The study evaluates the scope and effectiveness of the ministerial decision in regulating digital litigation, including lawsuit registration, procedural steps, judicial deliberations, issuance of judgments, and temporary orders. It identifies several gaps in the UAE's digital litigation system, particularly the lack of a comprehensive legislative framework and uniform digital procedures. The research concludes by recommending the enactment of dedicated legislation to standardise and regulate digital judicial proceedings. These recommendations include creating a secure digital system for litigation, clarifying procedural rules for third-party intervention, expanding digital appeal provisions, and defining the competent authority for system-wide implementation in exceptional circumstances.*

1 INTRODUCTION

The UAE legislature has shown a sustained commitment to judicial modernisation, aligning litigation processes with international best practices to improve efficiency and fairness. This includes providing litigation guarantees such as the right to litigation, the right to defence, and judicial safeguards that ensure fair legal proceedings.

In parallel, the UAE has systematically modernised its judicial framework to incorporate technological advancements, transforming both dispute resolution mechanisms and procedural approaches. As part of this procedural legislative evolution, it has recently introduced what is known as Smart Trials in judicial proceedings by amending or adding legal provisions that regulate the use of digitisation or modern technology in litigation. This shift aims to facilitate remote litigation without requiring parties—or, in some cases, the judge—to be physically present in the courtroom. This study uses this term distinctly from electronic litigation, which may refer more narrowly to filing or document processing systems.

The COVID-19 pandemic highlighted the significance of these amendments by enabling courts to function through remote mechanisms. Ministerial Decision No. 260 of 2019,[1] which predates the pandemic, provided the primary legislative foundation for electronic litigation in civil proceedings. Although this Decision was later supplemented by the Federal Decree-Law No. 42 of 2022,[2] it remains foundational for understanding the initial regulatory approach to smart litigation in the UAE.[3]

Traditionally, procedural laws required in-person case registration, document exchanges, and judgment issuance under judicial oversight. The shift toward digital justice preserves these safeguards while adopting flexible mechanisms that enhance efficiency.

This study assesses the adequacy of the procedural rules introduced by Ministerial Decision No. 260 of 2019 in regulating remote litigation. It seeks to balance litigants' rights with judicial effectiveness, highlighting how smart trials can enhance procedural efficiency and access to justice.

This study examines whether procedural rules in UAE legislation adequately regulate remote litigation. It explores how digital technologies have been integrated into litigation processes while safeguarding litigants' rights and enhancing judicial efficiency.

1 Decision of the Minister of Justice No 260 of 2019 'Concerning the Procedural Guide for Regulating Litigation Using Electronic Means and Remote Communication in Civil Procedures' [2019] Official Gazette 651.

2 Federal Decree-Law No (42) of 2022 'Promulgating the Civil Procedure Code' [2022] Official Gazette 737.

3 Maryam Mohammed Al-Shamsi, 'System of Remote Litigation in Accordance with the UAE Civil Procedure Law' (Master's thesis, UAE University 2022).

The significance of this study arises from two key aspects:

Theoretical Significance: This study is important for assessing the UAE's novel legislative approach to remote litigation, especially following the enactment of the Civil Procedure Law of 2022 and the 2019 Remote Litigation Guide. The COVID-19 crisis further highlighted the importance of remote litigation when physical attendance was not possible.

Practical Significance: Digital tools now play a vital role in modern life and judicial operations. Their use in litigation saves time and reduces the burden on the court. As UAE courts have applied remote litigation for over three years, this research includes a field study of Abu Dhabi courts to assess their practical effectiveness and procedural adequacy.

2 RESEARCH METHODOLOGY

This study employs a doctrinal legal research methodology, focusing on a structured analysis of the UAE's legal framework governing digital litigation. Central legislative instruments include Ministerial Decision No. 260 of 2019, which initiated formal regulation of remote procedures in civil cases, and the Federal Decree-Law No. 42 of 2022 on Civil Procedure, which consolidated and updated procedural norms in light of digital transformation. These sources are assessed to evaluate their effectiveness in: (1) enhancing procedural efficiency, (2) safeguarding litigants' rights, and (3) facilitating access to justice in a digitised courtroom setting.

To complement the doctrinal approach, the study integrates grounded institutional practices documented in Abu Dhabi courts between 2020 and 2024. According to official statistics from the Abu Dhabi Judicial Department (ADJD):

- 34,006 remote hearings were conducted in the first half of 2021, with a 100% digital hearing rate across all court types, including civil, labour, and family matters;[4]
- In Q1 of 2022, courts handled 150,507 remote applications and conducted 16,687 videoconference hearings;[5]
- By mid-2022, the figure had reached 169,908 digital applications, illustrating the deep entrenchment of digital litigation mechanisms;[6]

4 ADJD, '100% Remote Litigation in Abu Dhabi Courts Reflects Administrative, Technical Readiness: ADJD Under-Secretary' (*Emirates News Agency (WAM)*, 1 August 2021) <https://www.wam.ae/en/article/hszrcrut-100-remote-litigation-abu-dhabi-courts-reflects> accessed 1 June 2025.

5 ADJD, 'Abu Dhabi Courts Process 150,507 Remote Court Applications in 3 Months' (*Emirates News Agency (WAM)*, 17 April 2022) <https://wam.ae/en/details/1395303039964> accessed 1 June 2025.

6 ADJD, 'ADJD Processes 169,908 Remote Applications to Courts in 6 Months' (*Emirates News Agency (WAM)*, 11 September 2022) <https://www.wam.ae/en/article/hszrfgp9-adjd-processes-169908-remote-applications-courts> accessed 1 June 2025.

- In H1 2024, the ADJD processed 394,800 court-related electronic requests, confirming sustained reliance on digital platforms for litigation services.[7]

These empirical indicators serve as institutional touchpoints to illustrate how judicial practice in the UAE has adapted to and implemented digital litigation infrastructure.

While individual case files remain confidential and are not publicly accessible, this study draws from publicly available court statistics, press releases, and procedural circulars issued by the ADJD. These sources enable a mapping of the practical evolution of digital proceedings in a manner that aligns with legal and ethical standards. No identifiable data or private litigant information is included.

3 SMART TRIALS IN UAE COURTS: CONCEPTUAL FOUNDATIONS AND OPERATIONAL FRAMEWORK

This section addresses the concept of digital justice and examines how digital adversarial processes function in UAE courts.

To understand digital justice, it is necessary to define digital litigation under UAE law, followed by a discussion of its advantages and disadvantages.

3.1. Definition of digital litigation

At the outset, it is essential to distinguish the key terms used throughout this chapter. The term "digital litigation" refers to the procedural conduct of judicial processes using electronic platforms—this includes electronic filing, remote hearings, and digital document management.[8] "Digital justice" is a broader policy and institutional concept that encompasses the transformation of judicial services through technology to improve access, transparency, and efficiency.[9] In contrast, "smart trials" are considered an advanced form of digital litigation that incorporates artificial intelligence, data analytics, and integrated platforms to automate or optimise litigation processes.[10] While these terms are interrelated, this study adopts "smart trials" to describe the aspirational, fully integrated model of digital litigation currently developing in the UAE.[11]

7 ADJD, 'ADJD Processes Over Half Million Electronic Requests in H1 2024' (*Emirates News Agency (WAM)*, 5 August 2024) <https://www.wam.ae/article/141vmgo-adjd-processes-over-half-million-electronic> accessed 1 June 2025.

8 Mhd Samer Al Kattan, 'Digital Justice "Model of The United Arab Emirates"' (2024) 18(1) Revista de Gestão Social e Ambiental e04945, doi:10.24857/rgsa.v18n1-091; Adel Salem Allouzi, 'Digital Justice and Its Impact on the Functioning of Procedural Rivalry in UAE Law' (2024) 5(4) Research Journal in Advanced Humanities 300, doi:10.58256/4f8zyx55.

9 Al Kattan (n 8) 1.

10 Ziad Kh Al-Enizi and Ahmad Ghandour, 'Introducing Smart e-Trials into the UAE Judicial System' (2021) 37(1-2) Arab Law Quarterly 194, doi:10.1163/15730255-BJA10045.

11 ibid.

The UAE legislature began regulating electronic transactions with Federal Law No. 1 of 2006 on Electronic Transactions and Commerce. This law defines terms such as "electronic information" (e.g., data in the form of text, code, audio, or images) and "electronic systems" (i.e., software and devices used to manage data electronically). [12]

Subsequent amendments, such as to the Law on Evidence (amendment No. 10 of 2006), introduced provisions related to electronic signatures, documents, and transmissions. Article 17/bis defines electronic editions as any transmission or storage of information via IT systems[13]

To enable remote litigation, the Civil Procedure Law was amended through Decree Law No. 10 of 2017,[14] leading to the issuance of Federal Law No. 42 of 2022.[15]

- Article 228 defines remote communication as visual or audiovisual interaction to support remote attendance, document exchange, and legal procedures.
- Article 229 reiterates the definitions of electronic documentation consistent with Federal Law No. 1 of 2006.

Ministerial Decision No. 260 of 2019 established a procedural guide for the use of electronic means and telecommunications in civil litigation.[16] It defines:

- Remote trial as proceedings initiated using telecommunications or electronic platforms for attendance, documentation, and judgment;
- Electronic media as modern devices such as smartphones, tablets, and computers with digital or electromagnetic capabilities;
- Electronic Information Systems as court-managed platforms for handling lawsuits, memos, and notifications electronically.

12 Federal Law No (1) of 2006 'On Electronic Commerce and Transactions' [2006] Official Gazette 442. The Emirate of Dubai has promulgated Law No. (2) of 2002 Concerning Electronic Transactions and e-Commerce. These laws are consistent with the UNCITRAL Model Law on Electronic Commerce of 1996.

13 Federal Law No (10) of 1992 'On Evidence in Civil and Commercial Transactions' [1992] Official Gazette 233. The Evidence Act No. (36) of 2006 amended the Evidence Act, which introduced electronic means into the Evidence Act by regulating electronic signatures, electronic editors, and electronic documents. The article was also amended in the amended Act No. 27 of 2020. See, Federal Law No (36) of 2006 'Amending Certain Provisions of the Law of Proof in Civil and Commercial Transactions Promulgated by Federal Law No (10) of 1992' [2006] Official Gazette 455, art 17(bis); Federal Decree-Law No (27) of 2020 'Amending some provisions of the Law of Evidence in Civil and Commercial Transactions issued by Federal Law No. 10 of 1992' [2020] Official Gazette 687.

14 Federal Law No (10) of 2017 'Amending Civil Procedure Code' [2017] Official Gazette 622. Under the amendment to the Civil Procedure Act, the UAE legislature added a new chapter entitled "The use of telecommunication technology in civil proceedings" from articles 332 to 343.

15 Federal Decree-Law No (42) of 2022 (n 2).

16 Decision of the Minister of Justice No 260 of 2019 (n 1) 121.

Jurisprudential sources vary in their terminology. Some refer to these practices as electronic litigation, others as tele-litigation, and some use the broader term digital litigation. Although phrasing differs, the core idea remains consistent: the integration of technology in judicial procedures.[17]

One definition describes it as a new information-based judicial system in which litigation procedures are conducted through Internet-linked electronic courts,[18] using email to expedite case resolution and implement judgments electronically.[19] Another defines it as the electronic transmission of litigation documents, where a competent employee evaluates the documents and notifies the litigant of acceptance or rejection.[20]

Some scholars differentiate between partial and full digital adoption: the former includes limited use of electronic tools (e.g., document exchange), while the latter refers to fully virtual courts where all procedures are conducted electronically. In this broader sense, the virtual court replaces traditional services with digital transactions.[21]

A more advanced view defines it as an intelligent judicial system using official smart applications through secure networks, enabling litigation from initiation to enforcement.[22] This system integrates electronic files, automated processing, and communication technologies to expedite adjudication and streamline litigation.[23] From the above definitions, it is evident that both legislative and jurisprudential perspectives recognise electronic litigation as encompassing procedures such as evidence exchange, judgment issuance, and appeals conducted through digital means. The UAE legislature, in particular,

17 Amal Benazza and Sidi Mohamed Himmi, 'Privacy of Digital Litigation in Commercial Disputes' (2023) 11(9s) Russian Law Journal 545, doi:10.52783/rlj.v11i9s.1799; Andrii Shabalin and others, 'Use of Digital Technologies in Judicial Proceedings in Some Countries of Europe and the USA' (2024) 9(1) PETITA 1, doi:10.22373/petita.v9i1.224; Azad Sadeeq Mohammed, 'Electronic Litigation and Its Challenges' (Digital Media Effects on Society Security Under Domestic and International Laws: The Proceedings of the 2nd International Scientific Conference, Sulaimani Polytechnic University and Knowledge University, 27-28 April 2024) 398, doi:10.24017/dmedialaw24.17.

18 Nassif Jassim Muhammad Al-Karawi, *Remotely Litigation: A Comparative Study* (Al-Halabi Human Rights Publications 2017); Al-Shamsi (n 3).

19 Omar Latif Al-Obeidi, 'Electronic Litigation and its Implementation Mechanism: A Comparative Study' (2017) 1 University of Tikrit Law Journal 4.

20 Khaled Mamdouh Ibrahim, *Electronic Litigation: The Electronic Case and Its Procedures Before the Courts* (Dar Al-Fikr Al-Jamii 2007).

21 Ahmed Hindi, *Electronic Litigation, Use of Electronic Means in Litigation: A Comparative Study* (New University Publishing 2014).

22 Abdalla Mohammed Ali Salman Al Marzooqi, 'Electronic Litigation (Smart Litigation), and Electronic Litigation (Smart Judiciary): A Comparative Study of UAE Legislation with Certain Arab and Foreign Systems' (2021) 18(2) Sharjah University of Legal Sciences Journal 244, doi:10.36394/jls.v18.i2.7.

23 Hazem Mohammed Al-Sharaa, *Electronic Litigation and Courts* (Dar Al Thaqafa for Publishing and Distribution 2010); Farida Larqatt and Alawa Hwam, 'Electronic Litigation' (2021) 6(4) Research in Contracts and Business Law 183.

includes technological tools such as computers, smartphones, and video conferencing platforms (e.g., Zoom, Microsoft Teams) within the scope of electronic litigation, enabling virtual courts to operate fully via digital channels.

In the researcher's view, this approach is accurate. Technological integration in judicial processes began approximately two decades ago, progressing through three key stages:

Stage I: The initial introduction of computers into court operations—for printing transcripts, organising declarations, and managing procedures—served only as a support tool. While helpful, these applications did not constitute electronic trials, as traditional litigation procedures remained unchanged.

Stage II: Marked by remote litigation using smart applications and audiovisual media, this phase enabled electronic hearings, submission of evidence, and electronic issuance and appeal of judgments. It represents the operational core of what is now recognised as electronic trials, particularly in the UAE.

Stage III: This emerging phase—referred to as smart litigation or digital justice—goes beyond remote access. It involves a fully integrated system supported by artificial intelligence and centralised digital platforms that connect litigants, judges, and court officials. Proceedings are conducted entirely in cyberspace, from registration to enforcement. This virtual court model may signal a shift toward more automated judicial support systems—though the use of artificial intelligence in core adjudication functions remains subject to legal, ethical, and institutional safeguards. Comparative experiences, such as the use of AI-assisted decision tools in China and Estonia, highlight the potential benefits and challenges of integrating automation into judicial workflows—yet none fully replace judicial discretion.[24]

3.2. Advantages and Limitations of Digital Litigation

This section addresses the benefits and drawbacks of digital litigation, particularly in the UAE context, with comparative insights from international practices.

The application of smart trials—defined in this study as an advanced stage of digital litigation integrating intelligent technologies and centralised judicial platforms—has become a necessity aligned with global technological advancements. While often used interchangeably in broader discourse, this study distinguishes "digital litigation" as the operational aspect of electronically conducted procedures, "digital justice" as the institutional framework fostering technological transformation in judicial services, and "smart trials" as the aspirational, fully integrated model that incorporates AI and advanced analytics.

24 Zico Junius Fernando and Ariesta Wibisono Anditya, 'AI on the Bench: The Future of Judicial Systems in the Age of Artificial Intelligence' (2024) 13(3) Jurnal Hukum dan Peradilan 523, doi:10.25216/jhp.13.3.2024.523-550.

The benefits of smart trials are apparent at both institutional and user levels. From a governmental and judicial standpoint, their implementation supports the UAE's strategic vision of modernised, technology-driven governance. It aligns national judicial procedures with international standards,[25] promotes cost efficiency by minimising reliance on paper-based processes and physical infrastructure,[26] and enhances transparency and procedural equality by reducing personal discretion and enabling traceable communications.[27]

Additionally, smart trials improve crisis resilience. During the COVID-19 pandemic, digital litigation ensured the uninterrupted delivery of judicial services, demonstrating the judiciary's adaptability.[28] Digital fee payments and integrated document systems have streamlined court operations.[29] Judges and staff benefit from immediate access to case files, communication tools, and workflow systems, thereby enhancing procedural efficiency and reducing delays.[30]

For litigants and lawyers, remote participation provides critical flexibility. Virtual attendance eliminates geographical barriers, facilitates access for individuals living abroad or in remote areas, and allows lawyers to manage cases across multiple jurisdictions without the need for physical relocation.[31] The availability of secure digital access to case files, real-time document exchange, and electronic notifications expedites litigation and improves transparency for all parties involved.[32]

From a comparative standpoint, the experience of other jurisdictions demonstrates how digital litigation may be effectively integrated into judicial systems while ensuring procedural safeguards. In the United Kingdom, the Civil Justice Council has issued detailed guidance to support remote hearings during and beyond the COVID-19 pandemic.[33] Courts have adopted telephone and video conferencing technology to facilitate civil proceedings, thereby maintaining continuity and efficiency in the administration of justice. Remote

25 Amir Farag Yusuf, *Electronic Courts and Electronic Litigation* (Modern Arab Office 2014).

26 Al Marzooqi (n 22).

27 ibid.

28 Eman Mohamed Al-Gethami, 'Remotely Litigation about a Practical Jurisprudential Study on the Saudi System' (2021) 84 Journal of Shari a Sciences and Islamic Studies 964; 'Mohammed bin Rashid directs 80% of Federal Court Cases to be Converted to Remote Litigation by the End of the Year' (*Emirates News Agency (WAM)*, 20 June 2021) <https://wam.ae/ar/details/1395302945495> accessed 17 May 2025.

29 Fateima Hayti and Hiba Nabila Heroual, 'Electronic Litigation System Between Improving the Quality of Judicial Work and the Challenges of Digital Space' (2021) 7(1) Journal of Comparative Legal Studies 138.

30 Al Marzooqi (n 22).

31 ibid.

32 Al-Karawi (n 18); Khaled Mamdouh Ibrahim, *Procedures for Remote Litigation in Civil and Criminal Subjects* (Al Fiker University House 2019).

33 Civil Justice Council, 'Civil Justice in England and Wales: Protocol Regarding Remote Hearings' (20 March 2020); HM Courts and Tribunals Service, 'Modernising Courts and Tribunals: Benefits of Digital Services' (*GOV.UK*, 24 March 2025) <https://www.gov.uk/guidance/modernising-courts-and-tribunals-benefits-of-digital-services> accessed 8 June 2025.

hearings are applied flexibly, depending on the case type and the circumstances of the parties, with judicial discretion remaining central to procedural fairness.

Similarly, Estonia stands out as a pioneer in judicial digitalisation. The Estonian e-File system enables litigants, judges, and court personnel to manage cases electronically, including filing, document exchange, and procedural notifications.[34] Estonia has further explored the application of artificial intelligence in adjudicating small claims, particularly in administrative matters, under strict legal and ethical constraints.[35] These practices reveal the practical feasibility and potential benefits of smart justice, while also underscoring the need for clear procedural frameworks and widespread technological literacy. The UAE can draw valuable lessons from these models to enhance the consistency, adaptability, and transparency of its own digital litigation system.

However, despite these advantages, digital litigation presents significant technical and legal challenges that must be addressed for sustainable adoption.

On the technical side, internet connectivity remains a concern, particularly for litigants in regions with unstable access.[36] Infrastructure costs and the continual need for platform upgrades require long-term investment.[37] Furthermore, disparities in digital literacy—especially among older populations or users unfamiliar with judicial systems—may impede accessibility.[38] Cybersecurity threats, including potential data breaches or hacking, are critical risks in a system reliant on digital infrastructure. Implementing robust protection protocols is thus essential.[39]

Legally, the rapid evolution of technology has outpaced the development of legislative frameworks. While flexible executive regulations offer temporary solutions, comprehensive and adaptive legal systems are necessary for long-term stability. Procedural guarantees—such as openness, adversarial fairness, and the right to defence—are harder to preserve in virtual settings.[40] Additionally, digital litigation complicates evidence verification. Although UAE law permits judges to request original documents, remote systems may increase vulnerability to forgery and reduce evidentiary reliability.[41]

34 'Justice & Public Safety' (*e-Estonia*, 2025) <https://e-estonia.com/solutions/e-governance/justice-public-safety/> accessed 8 June 2025; 'Estonian e-File System' (*European Commission*, 29 July 2019) <https://ec.europa.eu/digital-building-blocks/sites/pages/viewpage.action?pageId=533365926> accessed 8 June 2025.

35 Eric Niiler, 'Can AI Be a Fair Judge in Court? Estonia Thinks So' (*Wired*, 25 March 2019) <https://www.wired.com/story/can-ai-be-fair-judge-court-estonia-thinks-so/> accessed 17 May 2025.

36 Ibrahim (n 32).

37 Al Marzooqi (n 22).

38 Hayti and Heroual (n 29).

39 Al Marzooqi (n 22).

40 Al-Shamsi (n 3).

41 Article 12/2 of Ministerial Decision No 260 of 2019 stipulates that: "Electronic documents are accepted in remote trials. This does not preclude the court from requiring the submitting documents to submit their assets if they find it necessary to determine the case. In this case, the opponent shall send the original document to the clerk and file the case file".

Despite these challenges, the researcher affirms that the expansion of digital justice in UAE courts is necessary and urgent.[42] The shortcomings identified should be addressed through a combination of updated legislative frameworks and practical measures—particularly through flexible executive regulations that can adapt to evolving technological contexts. Ongoing professional training should be a core requirement in selecting and preparing judges, staff, and lawyers for the era of smart justice.

3.3. Digital adversarial direct action

Digital litigation proceedings are initiated before the court, either by a decision of the competent authority to conduct the trial through digital procedures or by mutual agreement of the litigants. Accordingly, digital litigation initiated by decision of the competent authority is addressed first, followed by digital litigation based on the agreement of the litigants.

3.3.1. Initiation of Digital Litigation by Decision of the Competent Authority

According to Article 2 (2) of Ministerial Decision No. 260 of 2019, digital litigation may be applied either in whole or in part based on a decision by the competent authority, whether at the litigants' request or on the authority's own initiative. Article 3 further states that digital proceedings can be adopted at any stage of civil proceedings to ensure ease of litigation. The "competent authority" includes the President of the Court, the President of the Chamber, the supervising judge, or any assigned judge.

This means that the authority to implement digital litigation lies with the President of the Court for cases not yet assigned to a judge, and with the presiding judge or supervising judge once a case has entered the trial stage. However, the UAE legislature has not unified this mechanism across all courts.[43] In emergencies, such as the COVID-19 pandemic, leaving the decision to each court president or judge can lead to inconsistency and confusion. The researcher suggests that the Minister of Justice should be granted authority to issue a unified decision to apply digital litigation in exceptional circumstances (e.g., pandemics, disasters, force majeure),[44] while ensuring judicial independence and oversight mechanisms are maintained. Comparative legal frameworks—such as the UK's Coronavirus Act 2020—can offer guidance on maintaining the balance between emergency digital powers and rule-of-law safeguards.[45]

42 'The Judicial Department Reviews its Achievements during 2021 in a Media Forum' (*Emirates News Agency (WAM)*, 1 March 2022) <https://wam.ae/ar/details/1395303025742> accessed 17 May 2025.

43 Mohamed Essam Al-Tersawi, *Electronic Judiciary between Theory and Practice in the Light of the Experience of Egyptian and UAE Legislator* (Dar Al-Nahda Al-Arabiya 2019); Al-Shamsi (n 3).

44 Bakr Abdul Fattah Al-Sarhan, *Explanation of the UAE Civil Procedure Code under Federal Decree-Law No 42 of 2022* (Al-Hafiz Publishing 2024).

45 Coronavirus Act 2020: Chapter 7 (*UK Parliament*, 25 March 2020) <https://www.legislation.gov.uk/ukpga/2020/7> accessed 8 June 2025.

The competent authority may issue a digital litigation decision at various stages—before a case begins, during proceedings, or even during appeals or cassation. Such decisions may be temporary or permanent, depending on case-specific circumstances, such as illness, an emergency, or a party's absence. The application may also be general (e.g., during a national crisis) or specific (e.g., financial claims or parties residing abroad). Cases with simple, paper-based evidence are particularly suited for smart litigation.[46]

According to Al-Sarhan and Al-Gethami,[47] digital litigation should become the default method of adjudication, while traditional, in-person litigation should be reserved for exceptional cases as determined by the court. This model, in their view, enables broader application of smart justice and enhances the judiciary's responsiveness to modern procedural demands.

The decision to apply smart litigation is considered procedural—it cannot be appealed, as it does not affect the substantive aspects of the case. However, the same court can revisit and reverse its decision at any point, based on changing circumstances. While there is no formal appeal route, litigants may submit a reasoned request to the court for reconsideration.[48]

A legislative gap exists in the ministerial decision regarding the fate of a digitally litigated case if it is later referred to another court due to jurisdictional issues. Specifically, it remains unclear whether the digital litigation procedures, such as remote hearings, electronic submissions, and virtual case management, continue to apply in the receiving court or whether the proceedings revert to traditional physical hearings. The researcher recommends referring to Article 91(1) of Federal Civil Procedure Law No. 42 of 2022, which stipulates that litigants must appear before the court to which the case is referred on the scheduled date. While this provision departs from Article 85 of the repealed law,[49] it does not explicitly address the continuity of digital procedures post-referral. However, legal commentary has acknowledged the broader need for legislative coherence when cases transition across courts within a digital justice framework.[50] Furthermore, comparative legal analysis, such as studies on the U.S. multidistrict litigation (MDL) system and the UK's post-COVID reforms, suggests that jurisdictional transfers are typically treated as administrative events that should not disrupt the procedural format of the case. In MDLs, transfer is limited to coordinated pretrial tasks and does not

46 Al-Tersawi (n 43).

47 Al-Sarhan (n 44); Al-Gethami (n 28).

48 Al-Sarhan (n 44); Hayti and Heroual (n 29).

49 Article 85 (2) of the former Code of Civil Procedure provides that: "If the court finds that it has no jurisdiction, it shall order the referral of the case to the competent court, and the Office of Case Management shall declare the litigants to be sentenced". See, Federal Decree-Law No (42) of 2022 (n 2).

50 Rajaei Abdulrahman Abdulqader and Anmar Haitham Naama, 'The Extent to Which Digital Litigation Achieves Legal Protection for the Rights of Litigants' (2024) 7 Journal Port Science Research 505, doi:10.36371/port.2024.special.40; Allouzi (n 8).

override consistent procedural handling across courts.[51] In contrast, in the UK, remote hearing frameworks established during the COVID-19 pandemic have been supported by case management rules that preserve digital processes across court venues.[52] These insights reinforce the recommendation that UAE courts should presume continuity in digital procedure after transfer—unless expressly overridden—pending further judicial clarification or ministerial regulation.

3.3.2. Agreement-Based Initiation of Digital Litigation

Article 4 of the Ministerial Decision allows litigants or their legal representatives to request digital litigation. Applications are submitted to either the Director of the Office of Case Management or the Secretary of the Court, depending on the stage of the case. The competent authority must decide on the request within one day, and the decision is final.

The legislature distinguishes two scenarios:

First, if the request is made after proceedings have started, the application must be submitted to the Secretary of the Court (if before the trial judge) or to the Director of the Case Management Office.[53] The responsible authority then refers the request to the supervising judge, who must issue a decision within one day. The decision may not be appealed and does not require justification.[54]

Second, if the litigants agree to pursue digital litigation before proceedings begin, the request is submitted directly to the President of the Court.[55] This typically occurs when there is prior agreement between the parties or their lawyers. The court must rule within one day. All litigants must agree—if even one of the parties objects, the request is invalid. However, the court may still initiate digital litigation on its own authority.[56]

The legislature does not address situations involving third-party intervention in digital litigation. If a third party joins the proceedings and agrees to the digital format, no issue arises. But if the intervening party refuses, the court must revert to physical proceedings, as unanimous consent is required for digital trials.

51 *Lexecon Inc v Milberg Weiss Bershad Hynes & Lerach*, 523 US 26 (1998) US Supreme Court <https://supreme.justia.com/cases/federal/us/523/26/> accessed 8 June 2025; Lauren E Godshall, 'Direct Filing in Multidistrict Litigation: Limiting Venue Options and Choice of Law for Plaintiffs' (2021) 29(1) George Mason Law Review 3.

52 Janet Clark, *Evaluation of Remote Hearings During the COVID-19 Pandemic: Research Report* (HMCTS 2021).

53 Al-Sarhan (n 44).

54 Al-Shamsi (n 3).

55 Al-Sarhan (n 44).

56 Al-Tersawi (n 43).

According to Abdulqader and Naama, Cabral, Allouzi, Al-Tersawi, and Al-Sarhan,[57] such applications are procedural in nature and do not directly alter substantive claims or outcomes, though they may influence how rights are exercised within the litigation process. An agreement to use digital litigation is essentially a procedural contract between the parties. Therefore, lawyers or agents may only consent on behalf of their clients if their powers of attorney specifically authorise such agreements.

4 THE FUNCTIONING OF LITIGATION THROUGH DIGITAL MEANS

While this section explored the foundations and initiation of digital justice, this chapter focuses on the judicial process from initiation to final judgment and its appeal under the UAE's digital litigation framework. It excludes traditional courtroom procedures and only addresses aspects covered by UAE digital justice legislation. This chapter is divided into two main parts: the first addresses adversarial procedures by digital means; the second covers digital judgments, orders, and their appeal mechanisms.

4.1. Digital adversarial procedures

Traditional litigation is defined in jurisprudence as a legal relationship between two parties arising from a judicial claim, forming a structured process aimed at resolving disputes. Some define it as a sequence of interrelated procedural actions, while others view it as a set of legal steps undertaken by parties and judges from case initiation to final judgment.[58]

Digital litigation adapts this structure using electronic systems. It begins when a litigant submits a digital case sheet—either as a form or an electronic document—to the court via the internet. The case is registered, and the plaintiff receives a case number. The court then notifies the defendant, who must respond within a defined period. This replaces traditional procedures such as physical address verification and manual service of notices by bailiffs, thus streamlining the litigation timeline.[59]

Other definitions emphasise electronic judicial protection—using digital tools to conduct litigation while preserving legal safeguards and procedural fairness under existing legal frameworks.

57 Abdulqader and Naama (n 50); Antonio Cabral, 'Designing Procedure by Contract: Litigation Agreements in Contemporary Civil Procedure' (2019) 9(2) International Journal of Procedural Law 363, doi:10.1163/30504856-00902009; Allouzi (n 8); Al-Tersawi (n 43); Al-Sarhan (n 44).

58 Ahmed Abu Al-Wafa, *Civil and Commercial Arguments* (Dar Al Maaref 1977); Wagdy Ragheb Fahmy, *Principals of Civil Justice* (Dar Al-Fikr Al-Arabi 1986); Ahmed Muslim, *Principles of Litigation: Judicial Organization, Procedures, and Rulings in Civil, Commercial, and Personal Matters* (Dar Al-Fikr Al-Arabi 1977).

59 Al-Obeidi (n 19).

In the researcher's view, digital adversarial procedures consist of legal proceedings conducted through dedicated technical platforms,[60] covering all stages from case initiation to judgment.

Based on this, the analysis focuses on three interrelated components of digital adversarial procedures: the registration of cases and service of notice through digital means; the submission and exchange of evidence via electronic platforms; and the conduct of hearings and pleadings within a fully digital framework.

4.1.1. Case registration and service of notice via digital means

Digital proceedings

While the general procedural rules for filing cases still apply to digital litigation, this section focuses solely on the technical and digital mechanisms involved in registration and initial declarations.

For digital proceedings to function,[61] the court must operate a secure electronic system—typically a web-based platform or application—that allows lawyers, judges, and parties to access case files using encrypted credentials.[62] Article 1 of Ministerial Decision No. 260 of 2019 defines electronic registration as the filing of proceedings and requests in the court's digital records. Article 5 states that a case sheet may be submitted electronically to the Case Management Office, with all required data and supporting documents. This includes the email addresses of the plaintiff, the defendant, and their respective legal representatives. The case sheet must be signed electronically by the plaintiff or their counsel.

Under Article 6, the Case Management Office calculates and updates the required fees electronically, registers the case, and confirms the registration date. The plaintiff is notified of the hearing date, and the case record is stored digitally. The office then electronically serves the defendant with the case petition—if the defendant's email is provided. If not, alternative delivery (digital or paper) is used as outlined in the regulations.[63] The defendant has ten days to respond with a defence memorandum, which must be submitted electronically.[64]

60 ibid; Muhammad Saeed Ismail, 'Proof by Electronic Means', *Specialized Legal Encyclopedia*, vol 1 (2009) <https://arab-ency.com.sy/law/details/163257> accessed 8 June 2025; Tarjuman Nasima, 'Electronic Litigation Mechanism in the Digital Environment' (2019) 5(2) Journal of Legal Studies 121.

61 The United Arab Emirates' Code of Civil Procedure addresses the rules of the case sheet and the data to be provided in articles 44–49. These materials set out the data to be available in the case sheet and the court's registration proceedings through the Civil Proceedings Management Office. See, Federal Decree-Law No (42) of 2022 (n 2).

62 Al-Shamsi (n 3); Decision of the Minister of Justice No 260 of 2019 (n 1).

63 Ibrahim (n 32).

64 Al-Sarhan (n 44).

While Ministerial Decision No. 260/2019 operationalises the technical elements of case registration and digital initiation, its application must remain consistent with the broader procedural safeguards articulated in Federal Law No. 42 of 2022, which governs civil procedures at the legislative level.

Adversaries are granted a secure PIN to access the case platform and view or upload documents directly via the electronic system. All filings must be certified and, if in a foreign language, legally translated into Arabic. Additional applications—such as for intervention, amendment, or withdrawal—are also submitted and adjudicated digitally.[65]

In the researcher's view, a fully integrated digital litigation system should enable parties, particularly lawyers, to handle all procedures remotely without needing to visit the Case Management Office. This would require a centralised platform developed by the Ministry of Justice, with secure login access tied to each party or legal representative. Lawyers must be pre-registered and verified through the Lawyers Association in collaboration with the Ministry, with their credentials linked to their assigned cases.

Digital declaration of proceedings

Articles 6 to 8 of the UAE Civil Procedure Law (2022) govern judicial declarations, including timing, recipients, content requirements, and legal implications. Ministerial Decision No. 260 defines an electronic declaration as any notice sent using modern technical means by an authorised individual, whether a public official or private party.

An electronic declaration is valid if conducted through any of the following:

A. Email, SMS, or fax—provided the contact is recorded in the case file or declared during the proceedings. A copy of the message must be saved in the case record.[66]

B. Voice or video calls—if documented with the time, date, content, and recipient.

C. Any other method authorised by the Minister of Justice or mutually agreed upon by the parties.[67]

In the researcher's view, all declarations should be integrated into the same digital system used for other procedural actions. This system should track delivery status and confirm receipt (e.g., read receipts) of notifications. Any declaration made through the system would fulfil the legal requirement for notification of action and attached documents.

To ensure legal validity, the declarant must verify that the recipient is at least 18 years old and the message is sent directly to the recipient (not a proxy with a conflicting interest).

65 Al-Karawi (n 18).
66 Al-Shamsi (n 3).
67 Federal Decree-Law No (42) of 2022 (n 2) art 9.

This can be confirmed via direct inquiry during calls or by reviewing alerts for messages sent electronically.[68]

While digital declarations must meet the content standards outlined in Article 8 of the Civil Procedure Law, they are exempt from formal signature, fingerprint, or official stamp requirements, as these requirements are impractical in digital formats.[69]

The legal effect of electronic communications is determined by specific timestamps associated with each mode of transmission.[70] For email and SMS messages, the determining factor is the date on which the message is sent. In the case of faxes, legal recognition is based on the time the document is received by the recipient's system.[71] For recorded telephone calls, the timestamp confirming the recording serves as the point of verification for legal purposes.[72] These standards ensure clarity in establishing the timing and authenticity of electronically transmitted communications in judicial procedures.

Though technically streamlined, digital declarations still carry the full legal effect of traditional judicial service. As such, failure to meet procedural notice requirements—

68 Abbas Al-Aboudi, 'Judicial Report on the Power of Electronic Communications and its Role in the Determination of Civil Proceedings' [1997] Al-Rafidain Journal of Rights.

69 See, Federal Decree-Law No (42) of 2022 (n 2).
Article 8 of the Code of Civil Procedure of 2022 stipulates that: "1.
A. Applicant's name, surname, occupation, job, home, mobile number, fax number, chosen home, place of business, name of representative, surname and occupation or his or her job, home and place of business if he or she works for another.
B. The name, surname, occupation, job, domicile or chosen domicile of the applicant if the applicant's home is not known at the time of the announcement, the last home, place of business, mobile number, fax number and e-mail if any.
C. The name, function and signature of the advertiser.
D. Date of day, month, year and hour of implementation of the Declaration.
E. The court's name, the subject matter of the declaration, the case number and the date of the hearing, if any.
F. The name, surname, signature, ring or fingerprint of the recipient's recipe for receipt or proof of omission.
In the case of a technical declaration, the data specified in paragraphs (a), (b), (d) and (e) of section (1) of this article shall be limited.
If the official language of the defendant's nationality is other than Arabic, the plaintiff is obliged to attach an approved English translation to the declaration, unless there is prior agreement between the parties to attach the translation to another language.
Section (3) of this article applies to all civil and commercial proceedings other than workers' labour and personal status proceedings.

70 Arief Satrya Budianto, Ika Fransisca and Dave David Tedjokusumo, 'Perluasan Dari Alat Bukti Tertulis Dalam Perspektif Hukum Acara Perdata' (2024) 7(2) Law, Development and Justice Review 124, doi:10.14710/ldjr.7.2024.124-140.

71 Auzan Qasthary, Al Muttaqien and T Yasman Saputra, 'Legalitas Penggunaan Bukti Elektronik Dalam Hukum Acara Perdata' (2023) 6(1) Jurnal Sosial Humaniora Sigli 276, doi:10.47647/jsh.v6i1.1613.

72 Budianto, Fransisca and Tedjokusumo (n 70).

such as ensuring proper delivery, acknowledgement, or translation—may raise due process concerns, especially in cases involving international litigants or parties with limited digital access.[73]

If a digital declaration is not possible, the case reverts to paper-based service in line with traditional procedures outlined in Articles 6 to 18 of the Civil Procedure Code. Importantly, timing restrictions under Article 7(1)—which normally prohibit service before 7 a.m. or after 9 p.m., and on holidays—do not apply to digital declarations. Electronic notifications may be issued outside traditional timeframes and directed to both individuals and legal entities.

4.1.2. Submission And Exchange of Evidence Digitally

The UAE's Law of Evidence and Federal Law No. 1 of 2006 on Electronic Transactions and Commerce authorise electronic signatures and documents as valid evidence, provided they meet specified legal criteria. Digital litigation, therefore, requires that all procedural actions—including submission of evidence—be conducted through electronic means.[74]

This section focuses not on the substantive rules of evidence but on the procedural mechanism for presenting evidence digitally. In remote trials, scanned or digital copies of documents are accepted. However, if the court deems it necessary, it may request the original documents.

While the UAE courts may accept scanned or digital copies of documents, this flexibility must be balanced against the need for evidentiary authenticity and the parties' right to contest such evidence. These procedural safeguards are critical to ensuring fairness in digital litigation and are protected under UAE procedural law as well as in comparative systems.[75] For instance, Estonia has adopted blockchain-based timestamping mechanisms to authenticate electronic submissions, enhancing trust and preventing tampering with digitally transmitted evidence.[76]

A party may not object to an electronic document simply because it is a copy, unless it is expressly denied or challenged as inauthentic.[77]

73 Fernando Gascón Inchausti, 'Electronic Service of Documents National and International Aspects' in Miklós Kengyel and Zoltán Nemessányi (eds), *Electronic Technology and Civil Procedure: New Paths to Justice from Around the World* (Ius Gentium: Comparative Perspectives on Law and Justice 15, Springer 2012) 137, doi:10.1007/978-94-007-4072-3_8; John Sorabji, *A Model Civil Procedure Code for England and Wales* (OUP 2024) pt 10, 211, doi:10.1093/oso/9780192848680.003.0011.

74 Federal Law No (36) of 2006 (n 13) art 17(bis).

75 Budianto, Fransisca and Tedjokusumo (n 70).

76 Venkateshwarlu Velde, Fasi Ahmed Parvez and Jampala Chaitanya, 'A Blockchain Enabled System for Security, Non-Repudiation and Integrity of Judiciary Proceedings' (2022 First International Conference on Electrical, Electronics, Information and Communication Technologies (ICEEICT) 16-18 February 2022) doi:10.1109/ICEEICT53079.2022.9768427.
Zico Nagwa Abu Heiba, *Electronic Signature, its Definition: The Extent of its Evidential Validity* (Dar Al Nahda Al Arabiya 2012).

If a denial of a document's authenticity arises, the matter is referred to the supervising judge, who may transfer the case to the competent court to assess the objection. The court may resolve the dispute in chambers or set a hearing if required. Should the denial be found unjustified and cause undue delay or expenses, the court may impose a fine between 1,000 and 10,000 AED on the party making the baseless objection.[78] This is without prejudice to the role of regulatory bodies overseeing legal conduct.

The court or supervising judge may also conduct witness examinations and interrogations via telecommunications. However, if necessary, the court may order physical appearance, specifying the place and time.[79]

Witnesses testify using approved electronic systems and can be cross-examined. Testimony may also be submitted in written form via a secure court platform.

If a witness or a party is non-Arabic speaking, the court may appoint an interpreter via remote communication. The order will specify the hearing date, and interpreters must ensure technical readiness to provide accurate and clear translation.[80] Proceedings are electronically recorded.

Additionally, the court may rely on remote expert testimony. Reports are submitted electronically and may be discussed via the same systems used for witness statements.[81]

4.1.3. Conduct of Hearings and Pleadings within a Digital Framework

Remote trial procedures in the UAE are regulated by the Civil Procedure Law and supplementary regulations, enabling hearings to be conducted digitally while preserving fundamental litigation rights. Litigants may request an in-person hearing if they can demonstrate a compelling reason, subject to the court's approval and with prior notification to all parties through electronic means.[82]

The Procedural Guide for Remote Trials (Article 8) outlines the responsibilities of all actors to ensure smooth digital proceedings. Judges must begin hearings promptly, while technical staff are tasked with preparing and maintaining equipment to avoid disruptions. Case Management Offices handle the electronic notification of parties, and lawyers are expected to participate from appropriate environments that uphold court decorum. Oral

78 Federal Decree-Law No (42) of 2022 on the Civil Procedure Law, *Article 49(1)*, which authorizes the court to impose a fine ranging from AED 1,000 to AED 10,000 on a party who unjustifiably denies the authenticity of a document, causing delay or unnecessary costs. This provision maintains a disciplinary mechanism previously embedded in Federal Decree-Law No (11) of 1992 (now repealed), and reinforced through subsequent Cabinet Decisions.

79 Decision of the Minister of Justice No 260 of 2019 (n 1) art 13.

80 ibid, art 14.

81 Al-Shamsi (n 3).

82 Muhammad Issam Al-Tarsaawi, *Judicial Proceedings in Electronic Courts* (Dar Al Nahda Al Arabiya for Publishing and Distribution 2013).

arguments are presented during live video sessions, which are recorded to preserve procedural integrity. Court secretaries document essential statements and compile an official hearing record. These sessions must remain public, aligning with the principles of transparency and open justice.

The absence of a party in digital hearings triggers the application of traditional rules: if the plaintiff is absent, the case may be dismissed; if the defendant is absent, the hearing proceeds in absentia.[83]

All legal submissions, procedural requests, and evidentiary documents are exchanged electronically via secure court platforms. Lawyers are granted login credentials and encryption keys by court officials,[84] which allow them to access and upload documents. The court secretary verifies receipt and ensures that submissions are shared with the opposing party. These exchanges are conducted securely, and all case files are accessible through the court's digital system using encrypted authentication.[85]

Electronic records of hearings are prepared and signed by the judge and court clerk. Although litigants do not sign these records, authenticated paper copies can be issued upon request.[86] In the case of a settlement, the agreement is either digitally signed or submitted in writing through the system and becomes part of the court record with the enforceability of an executive bond.[87]

While Ministerial Decision No. 260 does not explicitly regulate the conduct of oral pleadings in digital environments, current practice closely parallels that of physical hearings. Plaintiffs may upload written submissions or present oral arguments via court-approved platforms such as Webex. Judges moderate the exchange and may pose clarifying questions before concluding the session.[88] The defendant subsequently presents their argument using the same format.[89] Given the centrality of oral pleadings in adversarial systems, the researcher emphasises the need to codify these digital mechanisms formally through an amendment to Ministerial Decision No. 260, ensuring clarity, procedural balance, and the preservation of parties' rights in digital trials.

83 Al-Sharaa (n 23).

84 Decision of the Minister of Justice No 260 of 2019 (n 1) art 9.

85 Al-Shamsi (n 3).

86 Decision of the Minister of Justice No 260 of 2019 (n 1) art 10.

87 Ahmad Khalil, *Civil Procedures* (Beirut Al-Halabi Legal Publications 2001).

88 Mohammed Mamoun Suleiman, *Electronic Arbitration: E-commerce, Arbitration Agreement, Arbitration Process, Arbitration Award* (New University House 2011).

89 Carolina Mancuso, 'Remote Justice and Civil Proceedings: The New Principle of Orality in the Post-Pandemic Era' (2024) 14(2) International Journal of Procedural Law 298, doi:10.1163/30504856-14020004; Davide Turroni, 'Oral Hearing Management Under the ESCP Regulation' (2021) 11(2) International Journal of Procedural Law 273, doi:10.1163/30504856-01102005.

4.2. Judgments and Orders by Digital Means and Their Appeal

Judicial deliberation in remote trials occurs via a secure, confidential platform accessible only to the presiding judges. Deliberation follows procedural norms, with the junior judge offering their opinion first, followed by the more senior judges.[90]

Judgments are issued electronically and include all legal justifications, facts, and reasoning. They are signed by the President and the panel of judges using pre-approved electronic signatures stored within the judicial information system.[91] If necessary, the President may opt for a manual signature. Once finalised, the judgment is filed electronically and made accessible to authorised court personnel.[92] Opponents and their legal representatives may obtain copies of the electronic judgment upon payment of the required fees.

Parties may submit electronic petitions for judicial orders via the court's digital platform. These are addressed to the presiding judge or chamber head, include supporting documents, and are processed electronically, including fee payment and timestamped registration. Once received, the judge issues a digitally signed order within one day, which is stored in the electronic case file. No additional announcements or enforcement formats are required.[93]

For performance orders, the creditor submits a petition electronically through the same system. If all legal conditions are met, the petition is forwarded immediately to the supervising judge, who submits it to the performance judge for adjudication.[94]

The case is entered into the performance order registry, including the date of filing and the identities of the parties.[95] Legal fees are processed digitally, and the petition takes effect from the date of submission—even if jurisdiction is later contested.[96]

The competent judge must issue a decision within three days, fully or partially accepting or rejecting the petition, and sign the order electronically.

Appeals in digital litigation require that the Courts of Appeal, Cassation, and the Federal High Court provide secure digital platforms to receive, process, and adjudicate electronic appeals. This ensures procedural continuity from the trial court to the appellate stage.[97] An electronic appeal functions similarly to a traditional appeal, except that it is submitted via the court's online system. It allows the litigant to request the review, amendment, or annulment of a judgment within the legally prescribed period.[98]

90 Al-Shamsi (n 3).
91 Yusuf (n 25).
92 Decision of the Minister of Justice No 260 of 2019 (n 1) art 16.
93 ibid, art 17.
94 Suleiman (n 88).
95 Decision of the Minister of Justice No 260 of 2019 (n 1) art 19.
96 ibid, art 20.
97 Al-Karawi (n 18); Al-Shamsi (n 3).
98 Dadyar Hamid Sulaiman, *The Legal Framework for Civil Litigation via the Internet: A Comparative Analytical Study* (Dar Al Thaqafa for Publishing and Distribution 2015).

Under Article 24 of Ministerial Decision No. 260 of 2019, the procedural rules for remote trials also apply to federal appellate courts and the Federal High Court. Electronic appeals must comply with the general legal requirements of appeal as outlined in the UAE Civil Procedure Code, including rules on deadlines, jurisdiction, and the types of judgments that may be appealed.

The appeal process involves registering the case electronically with the appellate court, opening a digital file, and submitting appeal arguments and related documents through the court's information system. Once declarations are completed, the Court of Appeal proceeds with review and judgment.[99] General procedural rules still apply, such as those governing third-party interventions, new evidence, and appellate hearing conduct. The same structure is followed in cassation or privilege courts, which must also have functional digital systems to manage appeals electronically.[100]

In the researcher's view, while digital litigation has advanced at the trial level, the UAE legislature has not adequately regulated appeals through electronic systems. Article 24 offers limited coverage, and additional legal provisions are required to govern electronic appeals comprehensively. This includes digital filing systems, appeal submission procedures, and interactions with the court at the appellate level.

The absence of detailed procedural norms for appellate digital litigation reflects a legislative gap. Comparative jurisdictions, such as the UK and Singapore, have developed specific protocols for remote appellate review, ensuring that procedural safeguards—including the right to a fair hearing and judicial scrutiny—remain intact across all levels of adjudication.[101]

5 CONCLUSIONS

This study aimed to evaluate whether the UAE's emerging framework for "smart trials"—an advanced form of digital litigation that relies on integrated platforms, remote hearings and, increasingly, AI-enabled tools—meets the basic demands of procedural efficiency, access to justice and litigant safeguards. Drawing on a doctrinal analysis of Ministerial Decision 260/2019, Federal Decree-Law 42/2022 and related circulars, as well as institutional data from the Abu Dhabi Judicial Department (ADJD), four broad findings stand out.

99 Al-Shamsi (n 3).

100 Al-Sharaa (n 23).

101 Tomasz Demendecki, 'De-Formalization and Electronicization of Civil Proceedings and Procedural Guarantees of Its Subjects' (2024) 59(5) Journal of Modern Science 21, doi:10.13166/jms/194481 Jane Donoghue, 'The Rise of Digital Justice: Courtroom Technology, Public Participation and Access to Justice' (2017) 80(6) Modern Law Review 995, doi:10.1111/1468-2230.12300; Terence Etherton, 'Rule-Making for a Digital Court Process: The Civil Procedure Rules—20th Anniversary Conference, 2019' in Andrew Higgins (ed), *The Civil Procedure Rules at 20* (OUP 2020) 57, doi:10.1093/oso/9780198863182.003.0003.

First, the statutory architecture remains fragmented. Ministerial Decision 260/2019 operationalises many technical aspects of e-filing and remote hearings, but it does so piecemeal and without the authority of primary legislation. In practice, this leaves judges to improvise when rules are silent: press releases issued by the ADJD (May 2022; October 2023) show courts handling fully remote hearings while still resorting to paper service or ad-hoc video links when digital rules prove ambiguous. A single, comprehensive Digital Procedures Act would provide a stronger legal footing, codify uniform standards for jurisdictional transfers and appellate review, and mandate a secure, centralised case-management platform.

Second, persistent terminological overlap ("electronic", "digital", "smart") obscures the deeper conceptual divide between (1) merely converting paper steps into electronic form and (2) redesigning the procedure for a native-digital environment. Future legislation should therefore begin with a clear statutory definition: digital litigation as the fully integrated, end-to-end conduct of cases through an official online environment; smart trials as that same environment enhanced by AI-driven support tools.

Third, current instruments designate multiple "competent authorities" (court presidents, supervising judges) to activate remote procedure, yet provide no unified trigger in national emergencies. Empowering the Minister of Justice to issue time-limited activation orders could solve this coordination gap—provided two safeguards are written in law: (a) each order must be subject to ex-post review by the Federal Supreme Court; and (b) the order must lapse automatically after a fixed period unless renewed by the legislature. Such sunset-and-review clauses mirror the approach adopted in the UK's Coronavirus Act 2020 and help preserve judicial independence.

Fourth, the oft-cited aspiration that digital hearings become the "default" must be approached with more nuance. Certain matters—family, juvenile and most criminal proceedings—raise privacy, evidentiary and welfare concerns that weigh in favour of physical appearance or, at minimum, hybrid formats. The comparative experience of England and Wales (where Family Division judges retained broad discretion to require in-person attendance) and Singapore (which distinguishes criminal from commercial e-hearings) underscores the need for tailored carve-outs rather than a blanket default rule.

In light of these findings, the study recommends that the UAE:

1. Enact a dedicated Digital Procedures Act. This statute would consolidate dispersed ministerial rules, define terminology, and extend digital procedure smoothly from first instance through cassation.

2. Create a single, encrypted national e-court platform. Building on ADJD's system, such a platform should support filing, service, evidence exchange, hearing management and appellate workflows, with blockchain-backed time-stamping for evidentiary integrity.

3. Introduce emergency-activation powers with sunset clauses and judicial review, balancing administrative coordination with constitutional checks.
4. Specify subject-matter carve-outs (e.g., family, juvenile, sensitive criminal cases) where in-person or hybrid hearings remain presumptive, leaving judges discretion but requiring reasoned orders when deviating.
5. Address third-party participation and inter-court transfers by stipulating that any matter initiated digitally continues digitally unless a party demonstrates concrete prejudice; referral courts should inherit the existing electronic file and hearing format.
6. Strengthen appellate provisions. Detailed protocols for electronic records transmission, remote oral argument and secure deliberation rooms are needed to fill the gap left by Article 24 of Decision 260/2019.
7. Maintain continuous professional training for judges, clerks and advocates, with certification tied to demonstrated digital-procedure competence.

By transitioning from a patchwork of ministerial decisions to a coherent statutory framework, the UAE can complete its transition from experimental "smart trials" to a mature digital-justice system that matches its ambitions for efficiency while safeguarding procedural fairness for all litigants.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Тематичне дослідження

ПРОЦЕСУАЛЬНІ ПРАВИЛА ДЛЯ СМАРТСУДОЧИНСТВА В ОАЕ: ПРАГНЕННЯ ТА РЕАЛЬНІСТЬ

Адель Салем Аллузі

АНОТАЦІЯ

Вступ. *Це дослідження аналізує процесуальні норми, що регулюють «розумне» (електронне) судочинство в ОАЕ, з акцентом на їх поточне впровадження та потенційний майбутній розвиток. Воно досліджує правову та технічну основу електронного судочинства та оцінює сумісність системи ОАЕ з цілями процесуальної ефективності та доступу до правосуддя.*

Методи. *У цьому дослідженні, яке складається з двох розділів, спочатку розглядаються концептуальні засади електронного судочинства та способи їх ініціювання, а потім здійснюється аналіз судових процесів, що проводяться за допомогою цифрових засобів. У роботі також було використано описово-аналітичну методологію для оцінки технічної доцільності та юридичної обґрунтованості цих практик. Особлива увага приділяється Міністерському рішенню № 260 від 2019 року та оцінюється система для дистанційного цивільного судочинства, ступінь інтеграції електронного зв'язку та процесуальну цифровізацію.*

Результати та висновки. *У дослідженні оцінюється обсяг та ефективність міністерського рішення щодо регулювання електронного судочинства, включно з реєстрацією позовів, процесуальними рішеннями, судовими обговореннями, винесенням рішень та тимчасовими заходами. У статті було виявлено кілька прогалин у системі електронногго судочинства ОАЕ, зокрема відсутність комплексної законодавчої бази та уніфікованих цифрових процедур. Дослідження завершується рекомендацією щодо прийняття спеціального законодавства для стандартизації та регулювання цифрових судових проваджень. Ці рекомендації передбачають створення безпечної цифрової системи для судового процесу, уточнення процесуальних норм для вступу третіх осіб, розширення положень про цифрове оскарження, а також визначення уповноваженого органу, відповідального за системне впровадження в умовах надзвичайних ситуацій.*

Ключові слова: *цифрове правосуддя, електронне судочинсвто, судовий спір, судова влада, цивільне процесуальне право.*