

PRELIMINARY MEASURES IN ELECTRONIC ENFORCEMENT A COMPARATIVE CIVIL- AND PROCEDURAL-LAW STUDY OF EGYPT AND THE UNITED ARAB EMIRATES (DUBAI)

MEDIDAS PRELIMINARES NA APLICAÇÃO ELETRÔNICA DA LEI: UM ESTUDO COMPARATIVO DE DIREITO CIVIL E PROCESSUAL DO EGITO E DOS EMIRADOS ÁRABES UNIDOS (DUBAI)

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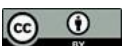
Abstract

compulsory enforcement still depends on paper-era assumptions about titles, service, and the mechanics of coercion. This article re-frames electronic enforcement as an interface between substantive civil-law rights (the creditor's claim, the debtor's liability, and the civil consequences of abusive measures) and procedural technique (opening the enforcement file, service, and interim restraints). Using a doctrinal and functional comparative method, the study analyses the Egyptian position and contrasts it with the Emirate of Dubai within the UAE federal framework, with particular attention to the 2025 legislative reforms and to the new UAE Civil Transactions Law. It argues that 'electronic enforcement' cannot be evaluated by speed alone. A credible system must ensure (i) a verifiable electronic executory title, (ii) a legally meaningful digital domicile for service, (iii) a calibrated toolkit of preliminary measures (freezing, attachment, travel restraint, and related orders) that remains proportionate to the underlying civil right, and (iv) civil liability pathways for wrongful or excessive measures. The article concludes by proposing drafting solutions that connect civil-law concepts (good faith, abuse of right, and the creditor's general guarantee) with procedural safeguards (traceability, contestability, and judicial control).

Keywords: Electronic Enforcement. Preliminary Measures. Precautionary Attachment. Digital

Resumo

A execução compulsória ainda depende de pressupostos da era do papel sobre títulos, citação e os mecanismos de coerção. Este artigo reformula a execução eletrônica como uma interface entre direitos substantivos de direito civil (a reivindicação do credor, a responsabilidade do devedor e as consequências civis de medidas abusivas) e técnicas processuais (abertura do processo de execução, citação e medidas cautelares). Utilizando um método comparativo doutrinário e funcional, o estudo analisa a posição egípcia e a contrasta com a do Emirado de Dubai dentro da estrutura federal dos Emirados Árabes Unidos, com atenção especial às reformas legislativas de 2025 e à nova Lei de Transações Cíveis dos Emirados Árabes Unidos. Argumenta-se que a "execução eletrônica" não pode ser avaliada apenas pela velocidade. Um sistema confiável deve garantir (i) um título executório eletrônico verificável, (ii) um domicílio digital juridicamente significativo para fins de citação, (iii) um conjunto calibrado de medidas cautelares (congelamento, penhora, restrição de viagem e ordens correlatas) que permaneça proporcional ao direito civil subjacente e (iv) vias de responsabilização civil para medidas indevidas ou excessivas. O artigo conclui propondo soluções de redação que conectam conceitos de direito civil (boa-fé, abuso de direito e garantia geral do credor) com



Domicile. Electronic Service. Executory Force. UAE Civil Transactions Law (2025). Egyptian Civil Code.

salvaguardas processuais (rastreadabilidade, contestabilidade e controle judicial).

Palavras-chave: *Execução Eletrônica. Medidas Cautelares. Penhora Cautelar. Domicílio Digital. Citação Eletrônica. Força Executória. Lei de Transações Cíveis dos Emirados Árabes Unidos (2025). Código Civil Egípcio.*

1 INTRODUCTION

Civil enforcement is the point at which a private right becomes public coercion. The law does not merely confirm that a creditor is entitled; it authorises state power to attach assets, freeze accounts, restrict movement, or compel sale. That transition is never purely ‘procedural’. It presupposes a civil-law claim that is valid, due, and enforceable, and it carries civil-law consequences if coercion is misused or miscalibrated.

The current acceleration of digital justice has therefore created a methodological risk. Many reforms treat electronic enforcement as a question of digitising documents: issuing a judgment electronically, sending a notification by text message, or opening a ‘smart’ enforcement file. Yet enforcement legitimacy depends on deeper legal guarantees: verifiable attribution, reliable notice, predictable time limits, and the possibility of review. A digital workflow that weakens any of these guarantees may generate speed, but it also generates contestation and civil liability.

This study focuses on preliminary measures in electronic enforcement. Preliminary measures are taken before, or at the outset of, full enforcement. They are designed to preserve the utility of the creditor’s claim by preventing dissipation, concealment, or strategic delay. In the UAE federal framework, as applied in Dubai, these measures operate within a system that increasingly assumes electronic case management and electronic service. Egypt, by contrast, still operates on a paper-centred model in compulsory enforcement even though electronic records have gained evidential recognition. The comparative inquiry is not one of legal transplantation. It asks how each

system can connect digital technique to civil-law foundations so that creditor utility is preserved without eroding debtor safeguards.¹

The analysis proceeds in eight sections. Section 2 states the research design and defines the ‘electronic enforcement’ concept used here. Section 3 provides the civil-law foundations that are often missing from procedure-only accounts, including good faith, abuse of right, the creditor’s general guarantee, and civil liability for wrongful measures. Sections 4 and 6 then analyse the procedural architecture of electronic enforcement (electronic executory titles and electronic service), with special emphasis on the 2025 UAE reforms and practical traceability. Section 5 turns to the core topic: preliminary measures in a digital setting. Section 7 offers drafting proposals in a form that can be used as model clauses. Section 8 concludes.

2 RESEARCH DESIGN, SCOPE, AND DEFINITIONS

2.1 A functional comparative approach

The paper adopts a functional comparative method. Instead of matching concepts label-by-label, it asks what each system does when a creditor seeks urgent protection at the threshold of enforcement and how the legal system controls the risk of overreach. That inquiry requires reading civil and procedural sources together. A ‘procedural’ order such as precautionary attachment is justified by a civil-law premise: the creditor’s claim is plausible and the risk of dissipation is real. Likewise, objections to enforcement are not only procedural delay tactics; they often dispute the existence, scope, or maturity of the civil obligation.

¹ Federal Decree-Law No 42 of 2022 (UAE Civil Procedure Code) (as amended by Federal Decree-Law No 22 of 2025) (UAE CPC); Essam Al Tamimi, *Practical Guide to Litigation and Arbitration in the United Arab Emirates* (Brill 2021); Richard Price and Essam Al Tamimi (eds), *United Arab Emirates Court of Cassation Judgments 1998–2003* (Brill 2004).

2.2 What is ‘electronic enforcement’?

Electronic enforcement is used here as a composite concept. It does not mean merely that a document exists in electronic form. It means that (i) the executory title is created, stored, and verified as data, (ii) procedural steps (opening the file, service, requests to auxiliary authorities, and logging) are conducted through official digital channels, and (iii) preliminary measures can be issued, transmitted, and implemented through connected authorities (banks, registries, employers) without forcing the system back into paper duplication. Throughout, ‘executory title’ denotes any document or electronic record to which the law attributes executory force.

2.3 Scope limitations

Two limits are important. First, the study is confined to civil enforcement (not criminal confiscation). Second, it does not attempt to evaluate software or algorithms as technical products. It assesses legal design: attribution, notice, reviewability, and the civil-law consequences of coercive measures. In this sense, the ‘technology’ matters only insofar as it changes the distribution of legal risks: the risk of non-notice, the risk of opaque execution, or the risk of wrongful freezing in an automated workflow.

2.4 Core sources

For the UAE side, the analysis relies primarily on the Federal Civil Procedure Law (as amended in 2025), its Executive Regulations—especially the provisions on electronic service—and the Electronic Transactions and Trust Services framework.² For the civil-law layer, it relies on the UAE Civil Transactions Law issued in 2025, particularly the provisions on good faith, negotiation duties, civil liability, and creditor protection.³ For Egypt, the analysis references the Egyptian Civil Code as the foundational source for

² UAE CPC (n 1); Cabinet Decision No 57 of 2018 (Executive Regulations) arts 8–9; Moustafa Elmetwaly Kandeel, ‘Electronic Judicial Litigation Procedures Before the UAE Civil Courts: An Analytical Study’ (2025) 16(2) *International Journal for Court Administration*, doi:10.36745/ijca.688.

³ Federal Decree-Law No 25 of 2025 (UAE Civil Transactions Law) (UAE CTL) arts 4, 108, 111–115; Abd al-Razzaq al-Sanhuri, *Al-Wasit fi Sharh al-Qanun al-Madani* (Dar al-Nahda al-‘Arabiya) vol 1.

obligations and civil liability, together with the procedural picture in compulsory enforcement and the doctrinal debate on electronic titles.

3 CIVIL-LAW FOUNDATIONS OF PRELIMINARY MEASURES IN ELECTRONIC ENFORCEMENT

3.1 Enforcement is grounded in a civil obligation

In enforcement writing, it is common to start from the executory title. That is a procedural instinct. Yet the executory title is only a vehicle for a civil obligation. If the obligation is not due, not determinate, or not attributable, coercion is illegitimate even if the procedural steps look correct.

In Egyptian law, the civil obligation is anchored in the basic premise that a contract is the law of the parties and must be performed according to its content.⁴ Equally, the general fault-based rule of civil liability frames the situation where the claim arises from a tort rather than a contract.⁵ These substantive anchors matter in electronic enforcement because digitisation can conceal substantive weakness behind procedural speed. A creditor can open an electronic file quickly, but the civil-law conditions for enforcement do not disappear.

The new UAE Civil Transactions Law adopts a similar structural approach. Contractual effects and interpretation are tied to the contract's content, the parties' common intention, and the requirements of good faith.⁶ It also regulates pre-contractual behaviour by imposing a duty of good faith in negotiations and recognising liability where negotiations are terminated in bad faith.⁷ These rules are not merely 'civil'. They affect enforcement design, because they clarify what counts as a protectable interest and when urgent preservation is justified. Comparative work on vitiating factors after the French Civil Code reform of 2016 also remains relevant. Where an electronic title rests on a

4 Egyptian Civil Code (Law No 131 of 1948) arts 147–148; Al-Sanhuri, Al-Wasit (n 3).

5 Egyptian Civil Code (Law No 131 of 1948) art 163; Al-Sanhuri, Al-Wasit (n 3).

6 UAE CTL (n 3) arts 164, 265; Al Tamimi (n 1).

7 UAE CTL (n 3) arts 4, 108, 111–115; Abdulla Al Khatib, 'Trying Out the Electronic Case Management System in the UAE and Its Compliance with Fundamental Judicial Guarantees' (2024) 38(5) An-Najah University Journal for Research (Humanities) 899–928, doi:10.35552/0247.38.5.2190.

contract affected by mistake, fraud or duress, enforcement design should allow a rapid, reasoned review of those objections.⁸

A properly designed system therefore treats preliminary measures as an extension of substantive rights, not as a procedural shortcut. Where the civil claim is uncertain, the measure must be lighter and more reviewable. Where the right is clear and the risk is high, the measure can be stronger.

3.2 Creditor protection, general guarantee, and preservation of security

Preliminary measures are justified, in civil-law terms, by the creditor's general guarantee. If the debtor could freely dissipate assets after liability is established, the civil right would become nominal. This is why civil codes often articulate, directly or indirectly, that the debtor's patrimony is the common security of creditors.

The UAE Civil Transactions Law states the principle expressly in the context of simulated acts: as a rule, the assets of the debtor form security for all creditors, and the creditor may invoke rules that prevent acts intended to prejudice that security.⁹ It also contains a targeted protective model in the chapter on mortgages. A mortgagee, for example, may seek judicial measures to stop acts that diminish the secured property and to take urgent steps to prevent or remedy deterioration.¹⁰ This is a civil-law recognition of a 'preliminary measure' logic: the law protects the value of the security before final enforcement.

In electronic enforcement, the same logic applies in a broader range of assets. Bank accounts, salaries, receivables, and increasingly digital assets can be dissipated faster than traditional property. Digitisation, paradoxically, increases both enforcement capacity and dissipation capacity. For this reason, electronic preliminary measures require stricter proportionality and clearer triggers. A measure that freezes an account within minutes must rest on a demonstrable civil-law ground and be accompanied by rapid judicial control and accessible objection mechanisms.

⁸ Hossam al-Din Ahmad Abd al-Hamid Sharif, 'Vitiating Factors in the French Civil Code after Ordinance No 131/2016 (in light of the Egyptian Civil Code)' (2024) 2(3) *Majallat al-Huquq lil-Buhuth al-Qanuniyyah wal-Iqtisadiyyah* 195–274, doi:10.21608/lalexu.2024.412242.

⁹ UAE CTL (n 3) arts 349, 1622; Al Tamimi (n 1).

¹⁰ UAE CTL (n 3) arts 1453–1454, 1462; Al Tamimi (n 1).

3.3 Good faith, abuse of right, and the civil limits of coercion

Two civil-law principles play a special role in calibrating preliminary measures: good faith and abuse of right. They provide a normative language for distinguishing legitimate preservation from coercive harassment.

In Egypt, the performance and exercise of contractual rights are framed by good faith.¹¹ The code also codifies abuse of right as a general limit: a right may not be exercised where the purpose is illegitimate, where harm is grossly disproportionate to benefit, or where the exercise exceeds social function.¹² These standards are highly relevant to enforcement, because a creditor may seek attachment or a travel restraint not to preserve recovery, but to pressure settlement or to damage commercial reputation.

The UAE Civil Transactions Law adopts the same architecture through its good-faith and intention-based approach to contractual effects, and through its wider tort and liability rules.¹³ In a digital setting, the practical risk is that automation can conceal the creditor's strategic motive. The file shows a lawful 'click' request. The system issues an order. The bank freezes a balance. The civil-law inquiry must therefore be expressed as procedural conditions: a requirement to show risk, a duty to disclose known facts, and an obligation to explain why a less intrusive measure is insufficient.

Embedding these civil limits into procedure is not hostile to efficiency. It reduces downstream disputes. A system that allows instant freezing with weak thresholds invites a wave of objections and damages claims. A system that demands a short, structured justification at the outset is more stable and more resistant to abuse.

3.4 Civil liability for wrongful preliminary measures

A final reason to integrate civil law into electronic enforcement is liability. Wrongful preliminary measures can cause immediate loss: interrupted payroll, frozen operating capital, damaged creditworthiness, and reputational harm. If the system is digitised, harm can occur faster. Civil liability must therefore be visible in the design.

11 Egyptian Civil Code (Law No 131 of 1948) art 148; Al-Sanhuri, Al-Wasit (n 3).

12 Egyptian Civil Code (Law No 131 of 1948) art 5; Al-Sanhuri, Al-Wasit (n 3).

13 UAE CTL (n 3) arts 4, 108, 111–115, 282–283; Al Tamimi (n 1) ch 1.

The Egyptian Civil Code's general rule of tort liability is the starting point for wrongful enforcement measures taken without right or in excess of right.¹⁴ Liability may also arise contractually where enforcement is used to pressure a party in bad faith in a contractual relationship. Under the UAE Civil Transactions Law, the general liability structure similarly treats fault causing harm as a basis of compensation and recognises joint liability in cases of multiple contributors.¹⁵ These civil-law routes matter for two design choices: (i) whether the procedural system logs and preserves evidence needed to prove wrongful action, and (ii) whether the procedure offers quick correction mechanisms that reduce harm and therefore reduce liability exposure. In assessing compensation, Egyptian doctrine also highlights the injured party's contributory fault and the duty to mitigate loss. Both can reduce recoverable damages, and they matter in fast-moving digital freezing scenarios.^{16,17}

A mature electronic enforcement framework should therefore guarantee auditability. Every step—opening the file, serving notice, requesting an order, issuing an order, transmitting it to an auxiliary authority, and implementing it—should leave a tamper-resistant log with time stamps. That log is not only procedural proof. It is also civil evidence in a later damages claim. Conversely, where the system is opaque, both creditor and court may face civil disputes that are difficult to resolve because the digital 'story' cannot be reconstructed.

14 Egyptian Civil Code (Law No 131 of 1948) art 163; Egyptian Code of Civil and Commercial Procedure (Law No 13 of 1968); Fathi Waly, *Civil Procedure in Egypt* (2nd edn, Wolters Kluwer 2020).

15 Egyptian Civil Code (Law No 131 of 1948) arts 163, 170; Al-Sanhuri, Al-Wasit (n 3).

16 Hossam al-Din Ahmad Sharif, 'The Effect of the Patient's Fault in Medical Liability' (2022) 2(2) *Majallat al-Huquq lil-Buhuth al-Qanuniyyah wal-Iqtisadiyyah* 360–468, doi:10.21608/lalexu.2022.284626.

17 Hossam al-Din Ahmad Sharif, 'The Legal Nature of the Duty to Mitigate Loss' (2023) 1(1) *Majallat al-Huquq lil-Buhuth al-Qanuniyyah wal-Iqtisadiyyah* 167–276, doi:10.21608/lalexu.2023.291843.

4 THE ELECTRONIC EXECUTORY TITLE: FORM, ATTRIBUTION, AND EXECUTORY FORCE

4.1 From paper ‘title’ to verifiable data

In enforcement, the instrument is not merely evidence; it is an authorisation. The instrument tells the state: ‘this claim may be executed’. For that reason, civil procedure traditionally insists on a closed list of executory titles and on an executory formula attached to the enforceable copy.

The UAE Civil Procedure Law expresses this traditional premise in an explicit rule: coercive enforcement is not permitted except by an executory title for a right that is established, determined, and due.¹⁸ It then lists the typical categories (judgments and orders; notarised instruments; court-approved settlements; and other documents to which the law gives executory force). This structure is flexible enough to incorporate electronic instruments, provided that the electronic form can supply the same functions that paper historically supplied: attribution, integrity, and resistance to alteration.

In Egypt, the position is more cautious. Judicial decisions and doctrinal writings recognise electronic records as evidence in several settings, but the idea of an ‘electronic executory title’ remains uneven. Part of the hesitation is technical (authentication). Part is institutional: enforcement practice is still organised around physical files and service by traditional methods. Accordingly, Egypt’s immediate challenge is not rhetorical digitisation, but constructing a legally secure bridge from electronic evidentiary value to executory force, supported by verifiable authentication and reliable notice.

4.2 Authentication, trust services, and the risk of ‘procedural automatism’

A credible electronic executory title depends on trust services. The key question is whether the system can prove, years later and under contestation, that a given electronic record was created by a particular person, at a particular time, and that its content has not

¹⁸ UAE CPC (n 1) art 145(1); Al Tamimi, Practical Guide (n 1).

been altered. This is the function of qualified electronic signatures, time stamps, and secure storage.

Where a system relies on these tools, it can safely expand the list of executory titles to include electronic notarised instruments, electronic settlement minutes, and—potentially—electronic agreements that meet heightened conditions. Where a system lacks these tools, ‘electronic’ becomes a label that hides risk.

The UAE has approached the issue through a general framework on electronic transactions and trust services, which supports the legal effect of electronic records and signatures, and thereby enables procedure to operate digitally.¹⁹ However, the existence of a trust-services framework is not enough. A procedural system can still create ‘automatisms’: orders that are issued by default because the interface makes it easy, not because the legal thresholds are satisfied.

To avoid automatisms, the enforcement platform should implement a minimal structure of legal verification. For example, when a creditor uploads an electronic instrument that claims executory force, the system should require metadata that maps to the legal conditions: category of instrument, authority that issued it, method of authentication, maturity of the obligation, and known defences. A short structured form, combined with judicial sampling and sanctions for misrepresentation, can preserve both efficiency and legality.

From a civil-law perspective, these controls are also justified by good faith. If the law expects parties to act in good faith in the formation and performance of obligations, it is consistent to expect the same in invoking coercive enforcement.

4.3 Practical implementation in Dubai and the opening of the enforcement file

The shift from paper to electronic enforcement is most visible at the moment of ‘opening’ the enforcement file. In the UAE system, organisational decisions on registering enforcement requests and creating enforcement files are delegated to the heads of the federal and local judiciaries within their competence.²⁰ This allows Dubai to

¹⁹ Federal Decree-Law No 46 of 2021 on Electronic Transactions and Trust Services (UAE) arts 1, 7, 17; Kandeel (n 2).

²⁰ Executive Regulations (n 2) art 9; Al Khatib (n 7) 899–928.

develop platform-based workflows while remaining within a federal procedural framework.

From a civil-law perspective, the opening stage is also where the system should demand a minimal statement of the underlying obligation. In paper practice, this statement is implicit in the file. In electronic practice, platform design may compress the legal inquiry into a minimalist submission. The system should therefore require a short, structured characterisation of the claim (contractual, tortious, unjust enrichment), because each type affects the appropriate preliminary measures and the likely defences.

A system that classifies claims also supports proportionality. Freezing a salary account for a small consumer dispute is different from freezing accounts in a large commercial fraud. Classification does not decide the dispute. It structures judicial attention, and it makes later review more coherent.

4.4 Cross-border electronic titles and language management

Electronic enforcement raises a practical cross-border issue: many enforceable claims arise from cross-border transactions, and evidence or titles may be issued abroad. A digital environment can make cross-border filing easier, but it can also magnify translation and authenticity problems.

Two aspects are especially relevant in the UAE. First, the Civil Procedure Law allows, in specified contexts, the use of English as the language of proceedings by decision of the competent judicial leadership. Second, even where Arabic remains the default, the law requires a translation of service documents into English where the defendant's official national language is not Arabic, unless the parties have agreed otherwise.²¹ This is a procedural expression of a civil-law idea: consent and predictability. Where parties have agreed on a language in their transaction, procedure should not surprise them.

For electronic enforcement, these rules imply a design requirement. The platform should support bilingual packaging of the executory title and the service packet, with a

²¹ UAE CPC (n 1) arts 57–58; Al Tamimi, Practical Guide (n 1).

clear record of which version was served. It should also record the translator or translation authority, because translation can be contested in execution disputes.

In Egypt, cross-border issues are also significant, but digital infrastructure is less integrated. A phased approach can still be adopted. First, courts can standardise the acceptance of electronically certified translations and create a registry of certified translators whose work can be verified digitally. Second, when an enforceable title is foreign (for example, an arbitral award or a foreign judgment subject to recognition rules), the enforcement file should separate three questions: (i) is the title recognised; (ii) what is the civil obligation it contains; (iii) what preliminary measures are proportionate to preserve efficacy pending recognition.

This separation matters. A system can legitimately take limited preservation steps even while recognition is pending, but only if the applicant shows a clear risk and provides adequate security to cover harm. Once again, the civil-law underpinning (risk and security) and the procedural design (fast but reviewable orders) must operate together.

5 PRELIMINARY MEASURES IN ELECTRONIC ENFORCEMENT: TOOLS, TRIGGERS, AND SAFEGUARDS

5.1 Why preliminary measures are more sensitive in a digital setting

Preliminary measures are sensitive because they combine urgency with coercion. They often operate *ex parte* or with minimal hearing at the outset, and they can affect property and mobility before the merits are fully contested. Digitisation increases sensitivity. It reduces transaction costs for the applicant and compresses the time between request and implementation.

In a paper system, a creditor's request for a precautionary measure requires physical filing, administrative steps, and often a short delay. That delay is inefficient, but it also acts as a friction that filters weak applications. In an electronic system, friction disappears. This is an achievement, but it also requires compensating safeguards.

The legal response should not be to slow the system down artificially. It should be to specify clear triggers and to ensure that objections are fast and meaningful. Design

choices become legal choices: what data must be provided, what explanations are required, what log is preserved, and how quickly review is available.

5.2 The UAE toolkit: precautionary attachment, pre-service measures, and travel restraint

The UAE Civil Procedure Law provides an explicit basis for urgent protective steps at the threshold of enforcement. Once an enforcement request is filed, the general rule is that the executory title is served and the debtor is given an opportunity to perform or to contest within the framework of execution disputes. However, the law recognises situations where service-first can defeat enforcement. It therefore authorises the execution judge to order precautionary attachment before service when indicators suggest that the debtor is attempting to conceal or dissipate assets, and it permits pre-service inquiry into the debtor's assets.²² Crucially, it also empowers the judge to prevent the debtor from travelling before service where indicators suggest an attempt to leave the state.²³

These powers are functionally aligned with civil-law premises. A creditor's guarantee is threatened by dissipation. A travel ban is justified only where flight risk threatens the efficacy of the civil right. Yet the powers are also potentially intrusive. They must therefore be coupled with reviewability and proportionality.

The law also contains a classic structure for precautionary attachment in litigation and urgency. A creditor may seek precautionary attachment through the court hearing the dispute or through the urgent matters judge, where there is a real risk of losing security.²⁴ It further provides specific rules for attaching movables in the hands of third parties and for cases where the applicant seeks attachment of a movable that is owned or subject to a real right or right of retention.²⁵ These rules can be operationalised digitally by connecting enforcement courts to registries and to banks. But connection does not eliminate legal thresholds. Even in a connected environment, the applicant must show a plausible right

22 UAE CPC (n 1) arts 172–173; Al Tamimi, Practical Guide (n 1).

23 UAE CPC (n 1) arts 172–173; Chambers Global Practice Guides, Enforcement of Judgments 2025: United Arab Emirates (Chambers and Partners 2025) (Chambers Guide).

24 UAE CPC (n 1) arts 247–254; Al Tamimi (n 1) ch 6; Carmon Reestrutura-engenharia E Serviços Técnicos Especiais, (Su) LDA v Cuenda [2024] DIFC CA 003 (26 November 2024).

25 UAE CPC (n 1) arts 247–254; Chambers Guide (n 23).

and a real risk; and the court must remain able to tailor the measure (scope, duration, and conditions) to the civil claim.

A practical observation follows. In platform-based enforcement, the ‘default’ often becomes the broadest measure, because it is easiest. This should be reversed. The default should be the least intrusive effective measure, with escalation only on a reasoned showing.

5.3 Civil-law calibration: linking measures to the nature of the claim and the asset

The same preliminary measure can be legitimate in one type of civil claim and excessive in another. For example, freezing a business account may be proportionate where the claim concerns deliberate asset dissipation or fraud, but disproportionate in a low-value consumer dispute where the debtor’s salary is the only source of living. This is why civil-law classification at file-opening (Section 4.3) is not a bureaucratic detail. It is a proportionality tool.

Civil-law calibration also requires attention to asset type. Digital enforcement can reach bank accounts, electronic wage systems, and registered assets quickly. But speed can cause collateral harm. A freeze can affect third parties (employees, suppliers) and can damage an ongoing enterprise. A court that orders such a measure should therefore consider whether narrower alternatives are available: attachment limited to a specific sum, ring-fencing of payroll, or temporary preservation of a particular receivable.

The UAE Civil Transactions Law offers a useful model here through mortgage protection. When the secured property is threatened by deterioration or by acts that reduce its value, the mortgagee may seek judicial measures that target the threat.²⁶ The idea is not to punish the owner; it is to preserve value. That logic can be generalised: preliminary measures in electronic enforcement should be framed as value-preservation tools.

Egyptian law can adopt the same calibration through the general principles of good faith and abuse of right.²⁷ A measure that is requested not to preserve value but to harass is abusive. A measure whose harm is grossly disproportionate to its utility violates the civil limit on exercising rights.

²⁶ UAE CTL (n 3) arts 1453–1454, 1462; Al Tamimi (n 1) ch 6.

²⁷ Egyptian Civil Code (Law No 131 of 1948) arts 148, 5; Al-Sanhuri, Al-Wasit (n 3).

5.4 Contestability, urgent review, and evidential traceability

Because preliminary measures are often granted urgently, contestability must be built in immediately after the fact. A debtor must be able to understand what was ordered, on what basis, and how to challenge it. In an electronic system, the platform should provide a ‘decision package’: the order, its structured reasons, the evidence relied upon, and the log of transmission to the implementing authority.

The UAE enforcement framework already treats execution disputes and urgent objections as a matter for the execution judge, with expedited handling.²⁸ Digitisation can strengthen that model by allowing rapid filing of objections and rapid scheduling of short hearings. However, digitisation can also weaken contestability if service is unreliable or if the order’s reasons are not recorded.

Traceability is therefore central. The more the system relies on automated implementation, the greater the need for transparent reasoning and review. Where the court relies on a ‘numerical’ or data-based output (for example, a credit report, bank data, or registry flags), the court should explain the linkage between that data and the legal threshold for the measure.

Finally, civil liability makes traceability non-optional. If a measure later proves wrongful, the injured party must be able to show what happened and why. A system that cannot be audited encourages liability disputes that are costly for all actors, including the judiciary.

5.5 Mobility restraints, detention, and ‘last resort’ design in the digital era

Digital enforcement tends to highlight financial measures (freezes and attachments), but mobility restraints remain central in many civil systems. The UAE law contains a detailed regime for debtor imprisonment and for preventing travel, framed as enforcement tools and also as protective measures.

Travel restraint is not limited to the execution stage. It may be ordered where there are serious reasons to fear escape and where minimum evidential conditions are satisfied,

²⁸ UAE CPC (n 1) arts 155, 158; Al Tamimi, Practical Guide (n 1).

including a written basis for the claim and a creditor guarantee to cover harm if the request proves unjustified.²⁹ This design expresses a civil-law balance. It recognises the creditor's interest in preserving the effectiveness of the claim, but it also internalises the civil cost of error by requiring a guarantee.

Where travel restraint is ineffective—because the debtor refuses to surrender a passport or appears to prepare for flight—the law authorises additional protective steps, including requiring financial guarantees or temporary custody measures under judicial supervision.³⁰ Again, the relevance to electronic enforcement is straightforward: a digital system can issue and circulate travel restraint orders quickly, but it must also make it just as easy to challenge them and to show compliance.

Debtor imprisonment is even more sensitive. The UAE regime sets conditions, procedural requirements, and categorical exceptions (age, family status, and medical incapacity), and it obliges the execution judge to conduct a short investigation if documents are insufficient.³¹ In the digital era, the key design point is sequencing. Imprisonment should not become the default response to failed collection attempts simply because it is administratively available. It should remain a last resort, used where (i) the civil obligation is clearly due, (ii) less intrusive measures have failed, and (iii) there is evidence of deliberate evasion.

For Egypt, the comparative lesson is not necessarily to adopt the same tool. It is to adopt the same discipline: any intrusive preliminary measure should come with structured reasons, rapid review, and a clear place in an escalation ladder. Digitisation makes escalation faster. The law must therefore make justification clearer.

5.6 Third-party implementation: banks, employers, registries, and collateral harm

Preliminary measures in electronic enforcement rarely operate directly against the debtor alone. They are implemented through third parties: banks freeze accounts, employers withhold wages, registries block transfers, and platform operators transmit

²⁹ UAE CPC (n 1) arts 174–176; Chambers Guide (n 23).

³⁰ UAE CPC (n 1) art 177; Al Tamimi, Practical Guide (n 1).

³¹ UAE CPC (n 1) arts 179–180; Al Tamimi, Practical Guide (n 1).

orders. Digitisation intensifies this networked implementation. A single judicial order can instantly produce multiple third-party effects.

This reality changes the due process landscape. In paper practice, a third party often receives a formal physical notice and has time to seek clarification. In electronic practice, a third party may receive an automated instruction through an API-like channel. The third party's compliance may be immediate, and reversal may be operationally difficult.

Legal design should therefore treat third-party implementation as a regulated stage of enforcement. Three safeguards are essential.

First, clarity of scope. Orders should specify the exact sum, the asset category, and any exclusions (for example, protected wages or minimum living funds). A generic 'freeze all accounts' instruction is easy technologically but legally crude. It also increases the probability of wrongful harm and downstream litigation.

Second, reversibility. The system should allow rapid modification or lifting of measures and should transmit updates to third parties with the same speed as initial orders. This is not only a technical feature. It is a legal guarantee: the right to effective objection is meaningless if the system cannot reverse harm promptly.

Third, allocation of responsibility. If a bank or registry implements an order beyond its scope, the affected party needs a clear path to correction and, where appropriate, compensation. Conversely, if a third party delays compliance without legal basis, the creditor's civil right may be undermined. An electronic enforcement framework can manage this through clear statutory duties for third parties, standardised response times, and audit logs.

Here, the UAE model of connecting enforcement to data sources is promising, especially where the execution judge is empowered to inquire into assets and to use credit information indicators at an early stage.³² Yet connection should not remove judicial responsibility. The order remains a judicial act. Data is an input, not a substitute for legal reasoning.

For Egypt, third-party implementation is often slower and more fragmented. This can be improved by prioritising a limited set of high-impact connections, beginning with

³² UAE CPC (n 1) arts 190, 192; Chambers Guide (n 23).

banks and wage systems, and by building a standard interface for orders that includes scope, duration, and objection metadata. These changes can produce immediate practical benefit without requiring complete platform transformation.

6 ELECTRONIC SERVICE AND ENFORCEMENT TIME LIMITS: NOTICE AS DUE PROCESS

6.1 Service as the constitutional core of enforcement

Whether an enforcement system is paper-based or electronic, the same foundational point holds: notice is not a formality. It is due process. In enforcement, notice performs two functions at once. It informs the debtor of the claim and the coercive consequences. It also triggers time limits for objections, challenges, and, in some systems, voluntary performance periods.

In electronic enforcement, service is also the point at which the system's legitimacy is most vulnerable. If service fails—because the digital address is wrong, because the message is not actually delivered, or because a platform log is incomplete—the entire enforcement sequence becomes contestable. A preliminary measure taken after defective service can therefore become not only voidable, but a basis for civil liability.

For this reason, electronic service must be designed as a verifiable chain. It must show: the chosen method, the address or identifier, the time of sending, the evidence of delivery or access, and the content served. Where these elements are missing, the system should not allow escalation to intrusive measures.

6.2 The UAE model: statutory recognition of technical methods with structured limits

The UAE Civil Procedure Law recognises a wide set of technical methods of service, including recorded audio or video communications, text messages to mobile phones, smart applications, email, fax, and other technological means.³³ This is a strong

³³ UAE CPC (n 1) art 13; Executive Regulations (n 2) art 8; Kandeel (n 2).

legislative statement that digital notice is legally meaningful. At the same time, the law preserves a structure of limits. It regulates the time windows in which service and the commencement of enforcement may occur, while explicitly relaxing these time restrictions for service by technological means (with an exception for recorded communications).³⁴ The logic is pragmatic: digital notice can occur reliably outside office hours and can reduce delay.

However, statutory recognition does not, by itself, solve the ‘digital domicile’ problem. A phone number or email address can change. A debtor can deny that a number was controlled by them at the relevant time. For this reason, electronic enforcement needs a legally meaningful digital domicile. The digital domicile can be built through registries (officially verified numbers and emails), through licensing systems for companies, and through contractual designation in electronic contracts.

A related safeguard concerns content. In traditional service, the physical document served is the evidential object. In electronic service, the evidential object is data. The system must therefore preserve the served content in a stable format and link it to the service record. It is not enough to preserve a log that ‘a message was sent’ without preserving what was sent.

Finally, the law’s recognition of electronic service should be operationalised through a structured judicial duty to confirm service validity before imposing coercive measures. In platform terms, the judge should see a service dashboard: method, evidence of delivery, and any flags (for example, repeated failures).

6.3 Egypt: evidential recognition without an integrated enforcement workflow

In Egypt, the legal system has moved towards recognising electronic communications and records in various contexts, including commercial practice and certain evidential settings. Yet compulsory enforcement still largely depends on paper-based service and paper-based file management. This creates a hybrid reality: parties may negotiate and contract digitally, but when enforcement begins, the system requires a translation back into paper forms.

³⁴ UAE CPC (n 1) art 14; Executive Regulations (n 2) art 9; Kandeel (n 2); Al Khatib (n 7).

Hybrid design creates its own risks. First, it encourages informal practices (screenshots, printed emails) that are evidentially unstable. Second, it creates timing disputes: when did notice occur, and by what method? Third, it reduces the practical utility of preliminary measures, because the time between dissipation risk and judicial response is longer.

A gradual reform path is available. Egypt can first standardise digital domicile designation in civil contracts and in commercial registries, using the Civil Code's good faith architecture as a normative anchor.³⁵ It can then allow electronic service in enforcement where the domicile is verified, while preserving paper service where verification is absent. This phased approach avoids the false choice between 'total digitisation' and 'no digitisation'.

6.4 Remote communication and the 'fully digital' enforcement file

The UAE Civil Procedure Law goes beyond service. It defines the use of remote communication technology in civil procedures as the use of audio-visual means to achieve remote presence and document exchange, explicitly including filing, service, adjudication, and enforcement.³⁶ It also links key digital concepts (electronic document, electronic system, electronic signature) back to the national trust-services framework.³⁷ These provisions matter because they locate 'electronic enforcement' inside the statute, not in administrative practice alone.

For preliminary measures, a fully digital file creates two advantages. First, it reduces delay in obtaining urgent orders. Second, it creates a unified evidential record of the steps taken. If implemented with robust logging (Proposal 3), it can also reduce later disputes and support civil liability assessment.

However, a fully digital file can also encourage a perception of enforcement as a sequence of automated compliance steps. For that reason, the platform should display

35 Egyptian Civil Code (Law No 131 of 1948) arts 148, 5; Egyptian Code of Civil and Commercial Procedure (Law No 13 of 1968); Waly (n 14).

36 UAE CPC (n 1) arts 328–330; Kandeel (n 2).

37 Minister of Justice Decision No 260 of 2019 (Remote Litigation Procedural Guide) arts 2, 5; Al Khatib (n 7) 899–928; UAE Federal Supreme Court, Appeal No 795/23 (Civil), 8 October 2002; Dubai Court of Cassation, Appeal No 50/2005 (Civil), 29 May 2005; Abu Dhabi Court of Cassation, Appeal No 263/2018 (Commercial), 15 May 2018.

legal thresholds, not only workflow steps. It should prompt the judge and the applicant to address risk, proportionality, and disclosure. This is where civil-law principles translate into enforceable procedural requirements. Comparative analysis of evidential sanctions in supply-contract litigation shows that refusal to produce relevant documents can justify adverse inferences. A digital enforcement platform should therefore treat non-production of platform logs and underlying records as a procedural fact that must be addressed in the judge's reasons³⁸

7 DRAFTING AND POLICY PROPOSALS: INTEGRATING CIVIL RIGHTS WITH DIGITAL PROCEDURE

7.1 A statutory 'digital domicile' for enforcement

Proposal 1: introduce an explicit 'digital domicile' concept applicable to civil obligations and to enforcement.

A digital enforcement system cannot rely on informal contact details. It needs a legally defined domicile that can be verified and updated. The civil-law layer is the natural place to anchor this concept, because parties are already required to act in good faith in the performance of obligations. A rule can therefore state that where a party has designated a verified electronic address for contractual performance or for legal notices, that address is presumed valid for enforcement notices unless the party proves timely update and reasonable excuse.

Model clause (Civil Transactions / Obligations):

- (a) A party may designate a verified electronic address (digital domicile) for notices relating to performance, breach, and enforcement.
- (b) Notices sent to the designated digital domicile are deemed delivered when the official system records successful delivery or access.
- (c) Each party must update the digital domicile within a specified period after change; failure engages the consequences of bad faith.

38 'The Effect of Refusing to Produce Documents in Supply Contract Disputes: A Comparative Study' (2026) 23(2) *Veredas do Direito*, doi:10.18623/rvd.v23.n2.4279.

This clause builds on existing good-faith principles and translates them into a procedural presumption. It also reduces disputes about whether service ‘really’ reached the debtor.

7.2 Structured thresholds for ex parte preliminary measures

Proposal 2: require structured reasons for intrusive preliminary measures, especially when granted before service.

The UAE Civil Procedure Law already allows the execution judge to order precautionary attachment and to prevent travel before serving the executory title when there are indicators of dissipation or flight.³⁹ This is a powerful tool, and it is justified in high-risk cases. But to preserve legitimacy in a digital workflow, the request should be structured.

Model clause (Civil Procedure / Execution):

- (a) An application for precautionary attachment or travel restraint before service must specify: (i) the civil basis of the claim; (ii) the amount; (iii) the factual indicators of dissipation or flight; (iv) why less intrusive measures are insufficient.
- (b) The court must record brief reasons addressing each element.
- (c) The order must state its duration and provide for urgent review upon objection.

This structure does not slow the system materially. It forces legal thinking into the digital interface and creates a record for later review.

7.3 Traceability and audit logs as legal requirements

Proposal 3: treat traceability as a legal requirement, not an IT preference.

Electronic enforcement increases reliance on inter-agency connections. A court order may be transmitted to a bank, a registry, or an employer within minutes. Where harm occurs, the system must show who did what and when. This is essential both for procedural justice and for civil liability assessment.

Model clause (Civil Procedure / Digital Operations):

³⁹ UAE CPC (n 1) art 166; Chambers Guide (n 23).

- (a) Each enforcement action must be logged with a unique identifier, time stamp, and actor identity.
- (b) Logs must preserve the content served and the content of the order.
- (c) Logs must be accessible to the court and to the parties through the case platform, subject to confidentiality restrictions.

Traceability supports both sides. It protects creditors against unfounded allegations of procedural irregularity, and it protects debtors against opaque coercion.

7.4 Rapid objection pathways and calibrated coercion

Proposal 4: accelerate objections rather than narrowing measures.

The stability of preliminary measures depends less on how strong the measures are, and more on how quickly they can be reviewed. A digital system should therefore enable a debtor to file an objection online with minimal friction, and should commit the court to a short review timetable.

Model clause (Civil Procedure / Review):

- (a) A debtor may file an objection to any preliminary measure electronically within a fixed short period.
- (b) The execution judge must decide the objection within a specified number of working days, either on the papers or after a short remote hearing.
- (c) The judge may modify the measure, replace it with a less intrusive alternative, or maintain it with reasons.

Calibrated coercion also includes indirect coercion. The UAE law permits the execution judge, where specific performance is not feasible or where the debtor fails to perform, to impose a daily fine as compensation for delay within capped limits.⁴⁰ In a digital setting, this tool can be more proportionate than broad asset freezing, because it targets non-compliance rather than liquidity.

⁴⁰ UAE CPC (n 1) arts 175, 166; Al Tamimi, Practical Guide (n 1).

7.5 Civil liability and sanctions for abusive enforcement requests

Proposal 5: make civil liability visible at the enforcement threshold.

Because preliminary measures can be requested quickly, there is a risk of strategic abuse. Legal systems already have civil liability doctrines that can address this, but parties rarely see those doctrines at the moment of filing. The platform can correct this by requiring an applicant declaration of good faith and by warning of consequences for abuse.

Model clause (Civil Procedure / Liability Interface):

- (a) An applicant for a preliminary measure must declare that the application is made in good faith and that material facts have been disclosed.
- (b) Where a measure is granted on the basis of false or concealed material facts, the court may order compensation and procedural sanctions.
- (c) The injured party retains civil-law rights to claim damages under the general rules of liability.

This approach does not create new substantive liability. It operationalises existing civil-law principles (fault, damage, causation; good faith; abuse of right) by bringing them into procedural consciousness.

8 CONCLUSION

Electronic enforcement is an exercise of public coercion grounded in private-law obligations. Digitisation should therefore be evaluated as a civil-and-procedural package: a verifiable executory title, a legally meaningful digital domicile and service, proportionate preliminary measures, rapid contestation routes, and clear civil-liability consequences where measures are wrongful or excessive.

9 KEY FINDINGS

1. Preliminary measures protect the creditor's general guarantee, but their scope must track the nature of the civil claim and the concrete risk of dissipation.

2. The UAE/Dubai framework already supports pre-service preservation tools; legitimacy depends on brief structured reasons, duration limits, and swift review.
3. Egypt's paper-centred enforcement workflow creates predictable notice and traceability gaps in digital transactions, weakening both recovery and safeguards.
4. Trust services (qualified e-signatures, time-stamps, secure storage) are the hinge for recognising electronic executory titles without evidential fragility.
5. A statutory digital domicile is the core stabiliser for electronic service, time limits, and the contestability of enforcement decisions.
6. Auditability (tamper-resistant logs) is necessary both for procedural review and for allocating civil liability for wrongful preliminary measures.
7. Third-party implementation requires clarity of scope, reversibility, and responsibility rules to reduce collateral harm to wages, operating capital, and third parties.

10 LEGISLATIVE RECOMMENDATIONS

10.1 For the Egyptian legislator

1. Introduce a 'digital domicile' rule for civil obligations and enforcement notices, with a duty to update and a rebuttable presumption of delivery.
2. Provide an explicit statutory basis for an electronic enforcement file and electronic service in enforcement, subject to verifiable domicile and logged delivery.
3. Recognise electronic executory titles where authentication meets trust-service standards, and require an executory-formula equivalent in the electronic record.
4. Codify structured thresholds for ex parte precautionary attachment and travel restraint (risk indicators, proportionality, and adequate security).
5. Embed rapid objection pathways (short deadlines, remote hearings where appropriate) and mandatory audit logs to make review effective in practice.
6. Clarify civil remedies for wrongful enforcement by linking damages to the Civil Code principles of good faith and abuse of right (arts 148 and 5) and tort liability (art 163).

10.2 For the UAE legislator

1. Consolidate the digital domicile concept across federal and local platforms (civil registry, licensing, and court systems) to reduce service disputes.
2. Require structured reasons, duration caps, and automatic early review for pre-service attachment, asset inquiry, and travel restraint orders.
3. Add express safeguards for wages and minimum living funds (ring-fencing and partial freezing) to minimise disproportionate collateral harm.
4. Standardise third-party implementation duties (banks, employers, registries), response times, and reversibility, with clear allocation of responsibility.
5. Strengthen cross-border handling of electronic titles through bilingual service packages, verified translations, and preservation of served content.
6. Operationalise Civil Transactions Law standards on good faith and creditor protection (including arts 120–121 and 251–253) within enforcement forms and judicial checklists.

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2. Cabinet Decision No 57 of 2018 issuing the Executive Regulations of the Civil Procedure Law (UAE) (as amended).
3. Federal Decree-Law No 46 of 2021 on Electronic Transactions and Trust Services (UAE).
4. Minister of Justice Decision No 260 of 2019 concerning the procedural guide for litigation using electronic means and remote communication (UAE).
5. Federal Decree-Law No 25 of 2025 issuing the Civil Transactions Law (UAE).
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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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