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## The Extent to which the Supreme Courts in the United Arab Emirates can Revoke their Final Decisions and Judgements

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### Abstract

*Recently, the UAE legislator allowed the Supreme Courts in the country to revoke their final decisions and judgements, despite the principle of exhaustion of court jurisdiction on matters they have previously ruled upon. However, this reversal is subject to specific conditions and procedures mainly outlined in the Civil Procedure Law. Therefore, this research aims to elucidate the legislative basis for this revocation, study its cases, reasons, and procedures, and subsequently assess its impact on the stability of rights and legal positions established by these decisions and judgements. Due to the novelty of the UAE legislative texts that stipulate this revocation, the research adopts analytical and contextual methods to interpret and compare these texts. It also includes presenting relevant jurisprudential opinions and judicial interpretations concerning this matter. The research concludes that a request for revocation can be made by the Supreme Court that issued the decision or judgement itself or by the party against whom the decision or judgement was rendered. This is applicable in cases where the decision or judgement is based on a substantial procedural error, relies on an annulled legal provision, or contravenes any established judicial principles in the country. The research recommends repealing the legislative texts that allowed for this revocation due to their negative impact on litigants' confidence in final judicial decisions and judgements. Instead, it suggests incorporating the newly established revocation cases into situations that permit seeking reconsideration in cases already decided by these courts.*

**Keywords:** *Revoking Court's Decision, Judgement Repeal, Cassation, Supreme Courts, Judicial Judgement reconsideration.*

### Introduction

Judicial rulings represent the culmination and purpose of litigation, through which the fundamental function of the judiciary is realized, which is to resolve disputes brought before it and ensure that each party receives their due rights. Perhaps the most distinguishing feature of judicial rulings from other judicial acts lies in the effects they possess, particularly the withdrawal of the dispute from the jurisdiction of the court that issued it upon its issuance, which is expressed by the principle of the exhaustion of court jurisdiction.

According to this principle, the court - regardless of its type or level - is prohibited from reconsidering the issue or issues for which it has issued its final judgement. It is not permissible for the court to revoke, modify, or annul its judgement, even if it becomes apparent that what it ruled was incorrect. (Dubai Court of Cassation Judgement, March 23, 1990, Appeal No. 233 of 1990 Civil, Journal of Judiciary and Legislation, Issue 2, 1993, p. 235). However, various

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procedural legal systems provide for several cases in which the issuing court is permitted to correct material errors in its judgement, interpret ambiguities or uncertainties therein, or rule on requests that were overlooked. In addition to cases of grievance, motion for reconsideration (and objection - or opposition - regarding default judgements for legislations permitting this avenue of appeal for non-criminal judgements), through which the court revisits the dispute it previously adjudicated.

In cases other than these, it is generally not permissible for any court to reconsider its judgement and rectify any injustice or invalidity it may suffer, except through available legal avenues of appeal such as appeal and cassation. If the judgement or judicial decision is void, its determination of nullity can be made - as is known - through an initial lawsuit."

The recent provision in UAE legislation allows for the possibility of the Supreme Courts in the country to revoke their final judgements, should they involve any errors or defects as specified in the new provisions introduced for this purpose. This is notwithstanding the presumed binding force of final judgements issued by the Supreme Courts.

The research problem lies in determining whether granting the Supreme Court the authority to revoke such judgements is preferable. Or should priority be given to the stability of established legal rights and positions protected by these judicial decisions? On one hand, justice refuses to uphold flawed, void, or unjust judgements without allowing the opportunity for correction and evaluation, even if issued by the Supreme Court.

On the other hand, justice itself refuses to allow any court - regardless of its type or level - to reconsider disputes for which it has issued a final decision or judgement, except in cases of material errors, ambiguities, or overlooking certain requests, and outside the scope of grievances and motions for reconsideration. This is to preserve the stability of established legal rights and positions protected by those final judicial decisions, which are supposed to be reflective of the truth. It also aims to avoid prolonging disputes further, which ultimately affects society's confidence in the fairness of the judiciary.

In this regard, some argue that "there is no dispute that the Court of Cassation represents the pinnacle of the judicial system and is the final refuge for litigants. Therefore, judgements issued by it cannot be appealed by any means or criticized in any way and must be respected in their conclusions, even if their judgement is erroneous (Al-Danasoori and Okaz, 2003: p.186).

Legal scholars have extensively discussed and researched the principle of exhaustion of court jurisdiction and its exceptions. They have also deliberated the validity of decisions and judgements issued by the Supreme Courts (Court of Cassation or Court of Appeal), and the fact that these decisions and judgements have the power of *res judicata*. However, they have seldom explored the possibility of the Supreme Court or other courts revoking their decisions and judgements, except in cases of material errors, ambiguities, or overlooking certain requests. Therefore, this research represents one of the first attempts to address this topic, examining it through study, explanation, analysis, and evaluation, despite the need for more references on the subject.

This research aims to attempt to answer the aforementioned problem, by clarifying the legal basis for the UAE legislator's authorization of the Supreme Courts in the country to revoke their decisions and judgements. It also aims to identify the relevant courts, decisions, and judicial judgements, study the cases and reasons for such revocations and their procedures, and subsequently evaluate this authorization and its impact on achieving the effective justice aimed

for by the UAE legislation generally. Additionally, it aims to assess the validity of decisions and judgements of the Supreme Courts and the stability of the legal rights and positions, established by these judgements particularly.

Due to the novelty of the legislative texts, which stipulate the possibility of the supreme courts in the United Arab Emirates to revoke their final decisions and judgements, exceptionally deviating from the principle of finality by revisiting issues previously adjudicated, the research adopted an analytical and contextual approach to these texts, as well as other texts directly or indirectly related to this exception. It explained and compared them, provided jurisprudential opinions and judicial interpretations thereof, and elucidated the extent of their impact on the conclusive judgements of the supreme courts in terms of their legitimacy and the strength of the case adjudicated as a general principle.

The research was divided into six sections; the first clarified the definition of revocation of judicial judgements and its legal basis. The second clarified the supreme courts that are authorized to revoke their judgements and decisions. The third elucidated the decisions and judgements of the supreme courts that are permissible to be revoked. The fourth explained the situations or reasons for revoking a decision or judicial judgement. The fifth outlined the procedures for revoking a decision or judicial judgement. The sixth evaluated the permissibility of the supreme courts to revoke their decisions and judgements. Finally, this research concluded by highlighting the most important findings and recommendations.

## **1. The Definition of Revoking a Judicial Judgement and Its Legal Basis**

**1.1 - Defining Revocation of a Judicial Judgement:****1.1.1 – In Language:** The term 'revocation' means departure or withdrawal. It is said: 'He revoked,' meaning he withdrew or departed from his opinion, that is, he deviated from it (Collective Dictionary of Meanings). Among the meanings of revocation is also the annulment of the initial action. They say: 'He revoked his statement,' meaning he withdrew his acknowledgement and nullified his previous statement (Encyclopaedia of Islamic Terms).

**1.1.2 – In Jurisprudence:** It can be said that revoking a judicial judgement from a jurisprudential perspective means the court revoking the judgement it issued due to a fundamental procedural error or invalidity committed by the court or one of its auxiliary bodies, without any fault on the part of the litigants, provided that there is no other legal remedy to address this error and remove the invalidity (Abdulrahman, 2012: P. 217). Some have argued that this revocation is nothing but a new method of appealing final judgements in the Federal Civil Procedures Law (Bashir, 2021).

**1.1.3 – In law:** Referring to Article 190 of the currently effective Federal Civil Procedures Law in the United Arab Emirates, it becomes clear that revoking a judicial judgement refers to the Supreme Courts and some specialised courts in the country revoking any of their decisions issued in the Consultation Chamber or their final judgements, in case the decision or judgement involves a material procedural error, or based on a nullified legal provision, or contravenes any of the established judicial principles in the country. This is done according to the regulations and procedures stipulated in the Civil Procedures Law (Al-Shamsi, 2022: P.16).

It can be said that revoking a judicial judgement is essentially an extraordinary appeal mechanism recently introduced by the UAE legislator, as evidenced by its inclusion in the fourth chapter of the section 12 "Appeal Procedures" of the first book of the Civil Procedures Law.

## **1.2 - The Legal Basis for Revoking a Judicial Judgement**

**1.2.1 – Before the Legalization of Revocation:** The Federal Law No. (11) of 1992, concerning the Civil Procedures Law, has enshrined the principle of exhaustion of jurisdiction by the court since its enactment and until before the amendments introduced in 2019 and thereafter. This principle applies irrespective of the type or level of the court, concerning matters previously adjudicated by final judgement. Thus, under no circumstances is it permitted for the court to revoke its judgement (Wafi, 2019: P.1723 and 1724).

The principle of a judge exhausting his jurisdiction means, in legal terminology, that he has fully exerted his efforts in a specific matter. Consequently, he is not entitled to revisit it, even if he becomes aware of an error or injustice in his judgement. Therefore, he no longer has the right to cancel, amend, add to, or delete from his judgement, even with the consent of the parties involved.

In cases where the legislature allows for the revocation of a case, in which a judgement has been issued, by the same court that rendered it, to rectify any material errors, clarify any ambiguities, resolve overlooked matters, or even address grievances or requests for revocation brought before it (Articles 137 to 139, 141, 147, and 171 of the UAE Civil Procedures Law), some in legal circles do not view these as exceptions to the principle of a judge exhausting their authority after issuing a judgement. Instead, the court derives its authority in such instances from its inherent and complementary jurisdiction to its original jurisdiction in resolving disputes. This implies that when the court reviews previous judgements in such cases, it does so not to revoke its original decision but to affirm or supplement it (Barakat, 2016: P.920-921, and Wafi, 2019: P.1738).

It is worth mentioning that the principle of the court exhausting its jurisdiction upon issuing its judgement finds its origins in Roman law, and was subsequently transferred from it to French law, which stated that "Once the sentence is rendered, the judge ceases to be" (Maryam, 2021: P.9).

Many countries' laws have adopted this principle, implicitly or explicitly, including the Algerian Civil and Administrative Procedures Law, where Article 297 states: "The judge relinquishes the dispute, he has settled upon pronouncing the judgement."

However, despite the absence of legislative provisions allowing the revocation of final judicial decisions and judgements, and the adherence of the supreme courts to the principle of exhausting the court's jurisdiction regarding matters that have been settled, we find that the judiciary in the United Arab Emirates - in both its criminal and civil branches - as in some countries like France and Egypt, occasionally exercises this revocation to rectify fundamental procedural errors that have affected the judgement and the litigants have no relevance to them (Al-Shamsi, 2022: P.23-29).

**1.2.2 - Legalizing Revocation:** The Emirati legislator gradually legalized the possibility of revoking final judgements through the following legislations:

### **A. The Law Regulating Judicial Relations between Federal and Local Judicial Authorities**

The UAE legislator has, for the first time, explicitly allowed the possibility of reconsidering judicial rulings through Federal Law No. (10) of 2019 concerning the organization of judicial relations between federal and local judicial authorities. This law came into effect three months after its publication in the official gazette issued by the Ministry of Justice, dated December 31, 2019, issue number 669, (Article 23). Article 18 of the aforementioned law mandated all judicial

authorities in the country, both federal and local, at various levels, to adhere to the principles established by the Judicial Principles Unification Committee, which are conflicting judicial principles issued by two or more supreme courts in the country. Any violation of these principles by a subsequent judicial ruling constitutes grounds for appeal through any available legal means. If such a violation occurs by any of these principles by one of the supreme courts in the country, the concerned party is entitled, within sixty days from the issuance of the conflicting judgement by the supreme court, to request the annulment of this judgement and reconsideration of the appeal according to the principle established by the committee.

#### **B. The Federal Decree-Law No. (15) of 2021, which amends certain provisions of the Civil Procedures Law issued by Federal Law No. (11) of 1992**

The mentioned decree came into effect starting from the day following its publication in the Official Gazette issued by the Ministry of Justice on September 2, 2021 (Article 4). Pursuant to the second article of this decree-law, the UAE legislator added to the Civil Procedures Law (in effect at that time) regarding the revocation of judicial judgements as follows:

- The text of Article (187) bis, which allowed the supreme courts in the country to revoke their decisions issued in the consultation chamber and their final judgements in specific cases and special procedures, was adopted by the legislator himself in the new Civil Procedures Law, which we will explain and study later.
- The text of Article (30) bis (2), which allowed the single-instance court - authorized by the legislator for the Minister of Justice or the head of the competent local judicial authority, according to the situation, to issue a decision to establish it - to revoke its judgements according to the cases, conditions, and procedures stipulated in this decree-law.

#### **C. The Federal Decree-Law No. (42) of 2022, which Includes a New Law on Civil Procedures**

Recently, the legislator included the content of Article (187), which is repeated - referred to in the previous paragraph - in the new Civil Procedures Law, issued by Federal Decree-Law No. (42) of 2022, which entered into force as of January 2, 2023, (Article 5). Its number has become (190) in this new law instead of (187 repeated).

It is worth mentioning that the content of the previous article was adopted as is in the new law without any modification, except for the numbers of the articles included therein, which were given new numbers in the new law. In addition, there were some minor modifications in some expressions, which we will point out in due course. As for the essence of the article, it remained as it is regarding the permissibility of the supreme courts to revoke their decisions issued in the advisory chamber and their final judgements, in the specific cases specified in the article, which we will clarify progressively as mentioned.

Additionally, the legislator included the content of Article (30) repeated (2) - also referred to in the previous paragraph - in the new Civil Procedures Law, along with modifications that align with the updates introduced by the legislator on some procedural rules, and its number became (32) in this new law. This article stipulated the permissibility of establishing a special chamber to consider inheritance claims and related issues or derivative claims from the inheritance, according to the conditions and procedures outlined in this article. Its judgement was made non-appealable, except by requesting a retrial from one party, and the possibility of revoking it according to the cases, conditions, and procedures stipulated in this law from another perspective.

Based on the foregoing, it can be said that revoking judicial decisions and judgements currently finds its legislative basis in the United Arab Emirates, in the two legislative texts mentioned above, namely: First - Article 18 of Federal Law No. (10) of 2019, issued regarding the regulation of judicial relations between federal and local judicial authorities. Second - Article 190 of the new Civil Procedures Law, issued by Federal Decree-Law No. (42) of 2022.

#### **D. The Enforcement of Both Article 18 of the Regulation of Judicial Relations between Federal and Local Judicial Authorities and Article 190 of the Civil Procedures Law is Effective**

Both articles are deemed obligatory for enforcement and application. If any contradiction is found between in some their aspects - as we will see - reconciliation between them must be sought, if possible, otherwise the new Civil Procedures Law shall be applied, considering that it was issued subsequent to the issuance of the Law on Judicial Relations between Federal and Local Judicial Authorities.

### **2 - The Supreme Courts, which are Permitted to Revoke their Judgements and Decisions**

#### **2.1 - According to the Law on the Organization of Judicial Relations between Federal and Local Judicial Authorities**

The legislator, in Article 18 of this law, authorized the concerned parties to request from "the Supreme Court that issued the judgement" the annulment of this judgement and a reconsideration of the appeal if it contravened any of the principles established by the Judicial Principles Unification Committee formed under the mentioned law. Without a doubt, the supreme courts in the United Arab Emirates are the following four courts:

- A. **The Federal Supreme Court**, which is the highest judicial authority in the United Arab Emirates, is headquartered in the Emirate of Abu Dhabi. It is permitted to hold its sessions in any emirate when necessary (Article 1 of Federal Decree-Law No. 33 of 2022 concerning the Federal Supreme Court).
- B. **The Abu Dhabi Court of Cassation** (Article 7 of Law No. 23 of 2006 concerning the Judicial Department in the Emirate of Abu Dhabi).
- C. **The Dubai Court of Cassation** (Articles 17 and 19 of Law No. 13 of 2016 concerning the Judicial Authority in the Emirate of Dubai).
- D. **The Ras Al Khaimah Court of Cassation** (Articles 10 and 11 of Law No. 5 of 2012 concerning the Regulation of the Judiciary in the Emirate of Ras Al Khaimah).

#### **2.2 - According to the Civil Procedure Law**

The first paragraph of Article 190 of this law states that "... the Court may revoke either the decision made thereby in chambers or its final judgement, ..." without specifying the type of court, whether it is primary, appellate, or cassation. However, considering that the mentioned article is included in the special chapter "Cassation," which is the fourth chapter of the second section "Appeal Methods" of the first book of the Civil Procedure Law, and considering that the second paragraph of the same Article 190 explicitly states that the request for reconsideration should be submitted to "... the Case Management Office of the Federal Supreme Court or the Court of Cassation, as the case may be ...", it can be inferred that the court referred to for revocation of its decisions and judgements is, conclusively, the supreme courts of the state; namely, the Federal Supreme Court, the Abu Dhabi Court of Cassation, the Dubai Court of Cassation, and the Ras Al Khaimah Court of Cassation, depending on whether the decision or judgement to be revoked was issued by any of these courts,

generally referred to as the "Court of Cassation," given that their primary function is to decide on appeals brought before them.

Therefore, Article 18 of the Law Regulating Judicial Relations between Federal and Local Judicial Authorities is in line with Article 190 of the Civil Procedure Law, in that the courts authorized to revoke their judgements, subject to the conditions and procedures specified in each, are, conclusively, the supreme courts of the country. Hence, the primary and appellate courts do not have the authority to reconsider any of their decisions or final judgements; they remain subject to the principle of exhaustion of jurisdiction concerning matters for which they have issued a final decision or judgement, and the exceptions applied to this principle.

It is worth mentioning that final judgements are those that settle the entire subject of the dispute, or part of it, or any issue arising from it. (Al-Kattan, 2023: p. 250)

### **3 - The Decisions and Judgements of The Supreme Courts that are Permissible to be Revoked**

#### **3.1 - According to the Law Regulating the Judicial Relations between the Federal and Local Judicial Authorities**

Article 18 of the mentioned law is generally limited to the possibility of repealing judicial rulings issued by the supreme courts in the country, without specifying the nature of these rulings.

#### **3.2 - According to the Civil Procedure Law**

The first paragraph of Article 190 of the mentioned law details the decisions and judgements that are subject to revocation. It states: "Without prejudice to the provisions of Article (185) (1) and as an exception to the provision of Article (189) of this law, the court may reverse its decision issued in the advisory room or its final judgement..."

Acting upon the texts of the aforementioned articles, it is noted that the scope of reversal is limited. On one hand, it applies to final judgements issued by the supreme courts in the state, and on the other hand, it includes decisions issued by these courts in the advisory room. However, the latter is excluded according to Article 185/1 of the Civil Procedure Law, which deals with the rejection of an appeal for one of the following reasons:

- A. The lapse of the appeal.
- B. The nullity of the appeal procedures.
- C. The appeal is based on grounds not prescribed by Article (175) of the Civil Procedure Law, which is as follows:
  - If the judgement is based on a violation of the law or an error in its application or interpretation.
  - If there is a defect in the judgement or in the procedures that affected the judgement.
  - If the judgement contradicts the jurisdictional rules.
  - If the judgement settles a dispute contrary to another judgement rendered on the same subject matter between the same parties, and the latter has the force of *res judicata*.
  - If the judgement lacks its justifications, or if the grounds on which it is based are insufficient or ambiguous.
  - If the judgement grants relief not requested by the parties or grants more than what they requested.

**D.** If the legal issue raised in the appeal is among those for which the Court of Cassation has already established a legal principle and the court finds no reason to deviate from it.

Thus, the exception to the reversal by the supreme courts in the state from their final decisions and judgements excludes decisions issued by them in the advisory room that reject the appeal for any of the reasons mentioned above. In other words, the exception of reversal applies to all final judgements issued by the supreme courts in the state on one hand, and to their decisions issued in the advisory room except for decisions that reject the appeal for any of the aforementioned reasons, provided that a legal ground for reversal exists, as we will explain below.

#### **4 – The Cases or Reasons for Revoking a Decision or Judicial Judgement**

##### **4.1 - According to the Law Regulating Judicial Relations between Federal and Local**

**Judicial Authorities:** The mentioned law, Article 18, permits the concerned party to request the Supreme Court to annul its judgement and reconsider the appeal in only one case: when this judgement contradicts any principle previously established by the Judicial Principles Unification Committee.

##### **4.2 - According to the Civil Procedures Law**

The first paragraph of Article 191 of the mentioned law specifies three situations or reasons that allow the supreme courts in the country to revoke their decisions and judgements, which are as follows:

**4.2.1 - Procedural Error Impacting:** This is the condition described by paragraph (a) of Article 190/1 of the Civil Procedures Law, stating: " If the decision or judgement is based on a procedural error committed by the Court or its assisting organs, and the same has affected the result reached by the judgement or decision of the Court."

It is known that procedural error is any mistake affecting any of the procedures involved in the judicial process. Common examples include failure to properly notify the person against whom the ruling is issued or failure to respect his right to defend his interests in the pending lawsuit (Attia, 2018: p. 593).

Procedural errors justifying the revocation of a decision or final judgement may occur by the court itself or any of its auxiliary bodies, such as the case management office. However, procedural errors committed or caused by the litigants are not considered grounds for revocation.

Furthermore, for the error justifying the revocation of the decision or final judgement issued by any of the high courts in the country, it is required that it has affected the outcome reached by this decision or judgement, resulting in a change in this outcome upon correction. Therefore, the court cannot revoke its decision or judgement if it is affected by a procedural error unless it has any impact on the outcome, meaning it does not alter the essence of this decision or judgement.

**4.2.2 - The Judiciary Based on a Repealed Legal Provision:** The situation described in paragraph (b) of Article 190/1 of the Civil Procedure Law is as follows: " If the decision or judgement is based on a repealed law, where the application of the correct law would change the course of opinion on the case." However, if the decision or judgement is based on a repealed law, but the application of the correct law would not change the outcome of the case,



meaning that applying the current law would not alter the result reached by the decision or judgement, then there is no room for revocation. This is in accordance with the concept of contravening the aforementioned provision.

Practically, it is difficult to envision this scenario in a case that has undergone all stages of litigation, culminating in a final decision or judgement by the judges of the supreme courts, who are the most experienced and seasoned compared to judges of lower courts. Nevertheless, this provision may find its justification in the abundance of repealed, amended, and updated legal provisions issued in recent years in the United Arab Emirates. This reflects the principle that returning to correctness is better than persisting in error.

**4.2.3 - Violation of Judicial Principles:** This is the case articulated in paragraph (c) of Article 190/1 of the Civil Procedures Law, stating: "If the decision or judgement is rendered in violation of any of the judicial principles adopted by the Tribunal or all tribunal of the Court, as the case may be, and without presentation of the judgement or decision to such tribunals, or where the decision or judgement is issued in violation of the principles established by the Court or issued by the authority in charge of standardizing the principles between the federal and local judicial authorities".

In this regard, it allows for revocation if the final decision or judgement issued by one of the chambers of the Court of Cassation violates any judicial principle established by the General Assembly of the Court of Cassation or its chambers, as appropriate, provided that this decision or judgement was issued in a case not presented to the General Assembly of the Court of Cassation or its chambers collectively. Similarly, it permits revocation if this decision or judgement contradicts any principle established by the Court of Cassation or the principles issued by the Unification of Judicial Principles Authority between the federal and local judicial authorities, established under Article 14 of Federal Law No. (10) of 2019 regarding the organization of judicial relations between federal and local judicial authorities.

It is worth noting that this last case specified at the end of paragraph (c) of Article 190/1 of the Civil Procedures Law aligns with the case outlined in the last paragraph of Article 18 of the Law Regulating Judicial Relations between Federal and Local Judicial Authorities. However, it contradicts it in two aspects: first, regarding the entity authorized to submit the request for revocation, and second, regarding the deadline for submitting the request, as we will clarify in the following section.

## **5 – The Procedures for Revoking a Judicial Decision or Judgement**

### **5.1 - Request to Revoke**

As previously noted, paragraph three of Article 18 of the Law on the Regulation of Judicial Relations between Federal and Local Judicial Authorities specifies the right to submit a request to annul the judgement issued by any of the supreme courts in the country and reconsider the appeal filed with this court. This can be expressed by requesting the revocation of the judgement of the Court of Cassation, by the concerned party only, which is usually the party that lost the case before the Supreme Court. Therefore, according to the provisions of this article, the Supreme Court is not allowed to reconsider the judgement issued by itself.

However, according to paragraph two of Article 190 of the Civil Procedures Law, a request for the Supreme Court (Cassation or Appeal) to revoke its final decision or judgement can be made

in one of the following two ways:

- A. Either by Submitting a Request for Revocation by the Supreme Court Itself:** In this case, the presiding judge of the court issuing the decision or judgement (whether it is the Federal Supreme Court, the Court of Appeal, or the Court of Cassation, depending on the case) refers the case, accompanied by a report from the court's technical office to a special committee established according to the third paragraph of Article 190 referred to, consisting of five judges from the same court, all of whom were not involved in issuing the decision or judgement subject to revocation. The legislature has termed this situation in the mentioned paragraph as "approval of referral".
- B. Or by Submitting a Request for Reconsideration by the Party Against Whom the Decision was made:** In this case, the party against whom the decision or judgement was issued initiates the submission of a request for revocation to the case management office affiliated with the decision issuing supreme court. In this case, the following conditions must be met, under penalty of the request for revocation being rejected:
- The party submitting the request must have a legitimate interest in seeking revocation of the decision or judgement, meaning that the revocation, if ruled upon wholly or partially, of this decision or judgement would serve the general and legitimate interests of the requesting party (Article 2 of the Civil Procedures Law).
  - The request for revocation must be signed by an accredited lawyer authorized to plead before the Court of Cassation (Article 190/3 of the Civil Procedures Law).
  - The request for revocation must be accompanied by a security deposit of twenty thousand dirhams to ensure the seriousness of the request. If the request for reconsideration is accepted, the security deposit is returned to the requester; otherwise, it is forfeited (Article 190/3 of the Civil Procedures Law).

## **5.2 - The Decision on Accepting the Referral or the Request for Revocation**

Article 18 of the Law Regulating the Judicial Relations between the Federal and Local Judicial Authorities did not specify special procedures for considering the request to annul the judgement issued by the Supreme Court that contradicts any of the decisions of the body established under the aforementioned law, and to reconsider the appeal in which this judgement was issued. It merely stated that the to repeal this judgement and reconsider its appeal, according to the principle established by the Authority.

However, according to the Civil Procedure Law, the special body referred to in the third paragraph of Article 190 - mentioned above - considers the acceptance of the referral issued by the Chief Justice of the Supreme Court or the request for revocation submitted by the party against whom the judgement was issued, in the Advisory Chamber. It issues its decision with reasoning, either unanimously or by a majority of four judges. If this body decides to reject the request for revocation, the security amount is confiscated". If it decides to accept the request, the case is transferred to another tribunal to reconsider the previous appeal for cassation and adjudicate it anew, with the security amount returned to the party requesting revocation, regardless of the final judgement that will be issued by this tribunal.

Undoubtedly, the procedures for deciding on the request for the Supreme Court's revocation, as stipulated in Article 190 of the Civil Procedure Law, take precedence over those stipulated in Article 18 of the Law Regulating the Judicial Relations between the Federal and Local Judicial Authorities, regardless of the legal reason for this revocation, because it is the latest provision to be issued, as mentioned earlier.

### 5.3 - The Deadline for Submitting the Motion for Revocation or Referral Approval

According to the provisions of Article 18 of the Law on the Regulation of Judicial Relations between Federal and Local Judicial Authorities, the concerned party may request from the Supreme Court, which issues the judgement contrary to any of the principles established by the Judicial Principles Unification Body, conflicting decisions issued by two or more Supreme Courts in the country, the annulment of this judgement and the reconsideration of its appeal within sixty days of its issuance.

On the other hand, the fourth paragraph of Article 190 of the Civil Procedures Law has specified the deadline within which the motion for revocation may be submitted, whether by the Supreme Court itself or by the party against whom the judgement is issued, **as one year** from the date of issuance of the decision from the advisory chamber or the date of issuance of the final judgement. This motion is limited to one submission only.

Faced with this contradiction between the two deadlines, the one-year period specified in Article 190/4 of the Civil Procedures Law (new) is applied, considering that it was issued - as mentioned - later than the Law on the Regulation of Judicial Relations between Federal and Local Judicial Authorities.

Undoubtedly, this one-year period is a long period during which the decisions of the Court of Cassation and its judgements are unstable, as they may be subject to revocation, modification, or annulment. These decisions and judgements will only find stability upon the expiration of this one-year period, without referral for revocation by the Chief Justice of the Court of Cassation itself, and the submission of a motion for revocation by the party against whom the judgement is issued. If the motion is submitted by the Chief Justice of the Court of Cassation the party against whom the judgement is issued, the judgement issued on either of them will have the power of *res judicata* and will be immune from any form of review, appeal, or revocation after this lengthy litigation process.

Furthermore, the prevailing party may have executed the decision or judgement issued in their favour by the Supreme Court, considering that the decisions of the Court of Cassation and its judgements are enforceable immediately upon issuance as a general rule (Article 217 of the Civil Procedures Law), and it may be impossible to revert to the previous situation as if the prevailing party had disposed of or dissipated the rights obtained from the execution of the decision or judgement before being revoked.

On the other hand, the possibility of revoking judicial decisions and judgements is stipulated by the UAE legislator in the Civil Procedures Law without the criminal procedures containing such a provision, although its justifications are clearer and stronger in penal decisions and judgements than in other judgements, as criminal judgements may affect the lives or liberties of the losing individuals (against whom judgements are issued) ... Therefore, its' rectification is prioritized over the rectification of non-criminal judgements.

## 6- Evaluating the Supreme Court's Permissibility to Revoke Their Decisions and Judgements

### 6.1 - Justifications for the Supreme Court's Authorization to Revoke Their Decisions and Judgements

Undoubtedly, judges and their assistants are human beings, and among the attributes of humans are fallibility and correctness. Therefore, a judge may unjustly rule in his decision or judgement against one of the litigants or others for any reason. This injustice may arise from a deficiency in the judge's understanding of the elements of the case before him or some of the

legal texts that must be applied. Hence, achieving justice requires opening one or more avenues for review or appeal of judgements issued by judges, as this corrects the judicial ruling and rectifies any injustice or oppression, thereby enhancing society's confidence in judicial rulings.

Moreover, it is worth recalling in this regard what was mentioned in the letter of the caliph Omar ibn al-Khattab, may God be pleased with him, to his judge Abu Musa al-Ash'ari, that: "... if you gave a judgement yesterday, and today upon reconsideration come to the correct opinion, you should not feel prevented by your first judgement from revoking; for justice is *primaeval*, and it is better to revoke than to persist in worthlessness ...".

In pursuit of this, the UAE legislator - As other legislators - has established specific provisions to correct any errors in judicial decisions and judgements, whether typographical or mathematical errors, to interpret any ambiguity or obscurity, and to accomplish any judgement omissions in the substantive requests of the litigants (Articles 137, 138, and 139 of the Civil Procedures Law).

Similarly, the UAE legislator has provided for grievance against judicial decisions and orders in many instances (Articles 141 and 147), regular appeals against primary judgements (Article 159), cassation as an extraordinary avenue for appealing appellate judgements for any of the exclusive reasons specified in Article 175, and for petitioning for reconsideration as another extraordinary avenue for appealing final judgements for any of the seven exclusive reasons stipulated in Article 171.

Furthermore, the UAE legislator has fortified the provisions of cassation in Article 189 of the Civil Procedures Law against appeal by any means, except for appealing through a petition for reconsideration of judgements issued by the Court of Cassation in the original dispute, in case any of the conditions specified in paragraphs (1, 2, and 3) of Article 171 of the Civil Procedures Law are met, which are as follows:

- A. If the adverse party has committed an act of fraud which affected the underlying judgement or ruling.
- B. If the judgement or ruling has been based on documents which, after the same is rendered, are acknowledged or turned out to be forged, or based on a witness testimony, which, after the judgement or ruling is rendered, turned out to be perjury.
- C. If, after the judgement or ruling is rendered, the moving party obtains instrumental documents which have been withheld by the adverse party.

In other than those cases, it is not permissible to appeal the judgements and rulings of the Court of Cassation regardless of the reasons, even if any of them are invalid. Correcting the judgement and rectifying any errors or defects can only be done through the available legal avenues of review and appeal. If the judgement or judicial decision is no longer subject to review or appeals for any reason, such as the expiration of the appeal deadline or the exhaustion of available avenues of appeal, then the judgement becomes an expression of reality even if it may not be so. Rendering the judgement covers any defects or flaws, and it is not permissible, likewise, to file a lawsuit seeking its annulment or the determination of its invalidity (Turki, 2015: p. 928 and above).

The supreme courts in the United Arab Emirates have affirmed the immunity of their final judgements from reconsideration or appeal by any means in many cases. For instance, the Federal Supreme Court mentioned that "considering the principle of not compromising the force of final judgements issued by the Court of Cassation above all considerations... except

for what arises from the essence of the dispute, which is subject to appeal through the avenue of petitioning for reconsideration (Civil Appeal No. 1/2005, session dated 18-6-2006). Furthermore, it stated that "the stage of appealing to the Court of Cassation is the final stage in the litigation process... (Civil Appeal No. 2/2001, session dated 10-11-2002).

However, given that the judges of the supreme courts are like any other humans, prone to error and correctness, and because rectifying injustice is better than perpetuating it, the Emirati legislature has recently allowed the supreme courts to reconsider any of their final judgements that have become immune to any other form of review or appeal, in case they are affected by any of the defects outlined in this research.

Perhaps therein lies the prevalence of the principles of justice and fairness, which dictate the nullification or modification of flawed judicial decisions, over the necessity of stabilizing legal institutions and resolving disputes, which necessitated immunizing final court judgements from review or appeal by any means (Abdulrahman, 2012: p.185).

## **6.2 - Cautions Regarding the Permissibility of the Supreme Courts to Revoke their Final Judgements and Decisions**

There is no doubt that providing opportunities for the review of judgements and decisions issued by judges if justified practically, can be beneficial. However, fully opening the door in this regard may prolong disputes indefinitely, leading to instability in rights and legal positions within society, and negatively impacting litigants' confidence in judicial rulings. Therefore, legal thought, which we support, leans towards stabilizing rights and legal positions within society and putting a limit on the duration of disputes brought before the judiciary. It emphasizes the necessity of correcting final judgements by other judges, not those who initially issued the judgement, as they are also human and prone to error, necessitating evaluation by other judges, thus continuing indefinitely.

On the other hand, permitting the Supreme Courts to revoke their final judgements and decisions, either upon request from the party against whom the judgement was rendered or by itself, directly affects the stability of rights and legal positions established in these judgements and decisions. The prevailing party will not find peace with the judgement until the expiration of the deadline for appeal, as stipulated by the legislator, which is one year from the date of the judgement (Article 190/4 of the Civil Procedure Law). This permissibility could lead to practical complications since judgements of the Supreme Courts are generally enforceable immediately and compulsorily. If a Supreme Court decides to revoke any of its judgements or decisions, it would necessitate returning the situation to its state before enforcement, which may be impractical in many cases, such as in the case of demolishing a building or if the prevailing party has already disposed of the assets awarded to them.

Therefore, to capitalize on the justifications for allowing the Supreme Courts to revoke their final judgements and decisions while avoiding their drawbacks simultaneously, we propose the repeal of Articles 18/3 of the Law Regulating Judicial Relations between Federal and Local Judicial Authorities and Article 190 of the Civil Procedure Law. Instead, the cases for revocation specified in these articles should be added to the cases allowing appeals for reconsideration, as stipulated in Article 171 of the Civil Procedure Law.

Thus, final judgements and decisions issued by any of the Supreme Courts in the country can be rectified according to the procedures for appealing for reconsideration (Articles 172 to 174

3514 *The Extent to which the Supreme Courts in the United Arab Emirates can Revoke their Final Decisions and Judgements* of the Civil Procedure Law) if they are flawed with any of the defects that originally justified allowing the revocation of those final judgements and decisions, thereby ensuring the immunity of these judgements and decisions from reconsideration.

## **Conclusion**

### **Results**

Based on this research, we conclude that as an exception to the principle of exhausting the court's jurisdiction to adjudicate on matters previously decided, the UAE legislator has recently authorized the Supreme Courts in the United Arab Emirates, including the Federal Supreme Court, the Abu Dhabi Court of Cassation, the Dubai Court of Cassation, and the Ras Al Khaimah Court of Cassation, to revoke:

- A. Its final judgements; in case the judgement involves a consequential procedural error, relies on a nullified legal provision, or contravenes any of the established judicial principles in the country.
- B. Its decisions are issued by the Consultation Chamber, except those that rule to reject an appeal for any reason mentioned in the first paragraph of Article 185 of the Civil Procedures Law.

The request for recourse must be submitted either by the Supreme Court issuing the decision itself or by the party against whom the decision was rendered, within one year from the date of issuance of the decision or judgement, and this request must be submitted only once, according to special procedures explained in the text of this research.

We have seen that the authorization of the Supreme Courts to reconsider their final decisions and judgements finds its legislative basis in both Article 18/3 of the Regulation of Judicial Relations between Federal and Local Judicial Authorities, and Article 190 of the Civil Procedures Law. Therefore, both provisions are mandatory and applicable. If any inconsistency exists between them in some of the aspects - as we have seen in this research - reconciliation between them must be sought if possible. Otherwise, the Civil Procedures Law (new) shall be applied, considering that it was issued after the Regulation of Judicial Relations between Federal and Local Judicial Authorities. It is also not permissible to expand the interpretation of either of the mentioned provisions or to apply the analogy to either of them, as they both entail the authorization to reconsider final judicial decisions, as an exception to the principle of exhausting the jurisdiction of the court regarding matters that have already been adjudicated.

### **Recommendations**

With respect to the principle of exhaustion of the court's jurisdiction regarding the dispute it has previously ruled on, which has been firmly established in legal thought, both domestically and internationally, for a long time, and in recognition of the necessity for the decisions and judgements of the supreme courts to have the force of *res judicata* and thus be safeguarded from any alteration or change after their issuance, and for the preservation of the stability of the rights and obligations established by these decisions and judgements, we recommend the repeal of the last paragraph of Article 18 of the Law on the Organization of Judicial Relations between Federal and Local Judicial Authorities, in addition to the repeal of Article 190 of the Civil Procedures Law. We also suggest incorporating the cases allowing for recourse specified

in these provisions into the cases permitting appeal through the motion for reconsideration, as provided for in Article 171 of the same law.

Thus, taking into consideration the justifications that led to allowing the supreme courts to reconsider their final decisions and judgements, while also mitigating their drawbacks, ultimately enhances the validity and conclusiveness of these judgements, making them a reflection of truth and putting an end to legal disputes.

In the event that the provisions of the aforementioned articles are not repealed, we recommend, additionally, reducing the time limit for submitting a request for reconsideration, whether by the court itself or by the party affected, to thirty or sixty days at most from the date of issuance of the decision or judgement, instead of a year, to prevent the rights and legal positions established by final judicial decisions and judgements from remaining unsettled and unstable for an extended period.

Lastly, it is worth noting that the explicit provision regarding the system of revocation of final judicial decisions and judgements in the criminal Procedure Law takes precedence over the provision in the Civil Procedures Law. This is because the justifications for this system are more apparent and compelling in criminal judgements than in other types of judgements, as these judgements may affect the lives or liberties of convicted individuals. Therefore, their Straighten takes precedence over the Straighten of non-criminal judgements.

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