Explanatory Memorandum of Article (1) of Decree No. (28) of 2018

Concerning the Admissibility of Civil Appeals

Brought before the Dubai Courts[1]

In response to the changes brought about by the smart transformation that is reshaping the Emirate of Dubai in general, and the Dubai Courts in particular, His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE, in his capacity as Ruler of Dubai, has issued Decree No. (28) of 2018 Concerning the Admissibility of Civil Appeals Brought before the Dubai Courts.

With a view to achieving smart transformation, the Dubai Courts have implemented several initiatives aimed at streamlining litigation procedures and expediting the adjudication of cases through the use of modern technology in providing its services. These initiatives include the e-services for the registration of applications for first instance claims, appeals, provisional orders and summary court orders, and execution orders, among other services. The e-registration of civil appeals brought before the Dubai Courts applies to civil appeals brought against judgements rendered by the Court of Appeal and Court of Cassation, as well as motions for reconsideration.

The Dubai Courts have detailed the procedures for utilising these e-services, outlining the service description, the eligible beneficiaries, the required documents for appeal registration, the registration procedures, and the prescribed fees. This process guides the appellant from the registration of the appeal, through review by the Case Management Office, attendance of hearings, and up to the rendering of the judgement.

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[1] *Every effort has been made to produce an accurate and complete English version of this legislation. However, for the purpose of its interpretation and application, reference must be made to the original Arabic text. In case of conflict, the Arabic text will prevail.*

Whereas the Dubai Courts have enabled the online registration of appeals through their electronic system; whereas the e-registration process is subject to certain procedures, including verification by the Case Management Office to ensure that the appeal meets all requirements before proceeding with its registration; whereas this process may take some time, potentially delaying the filing of the appeal; and whereas these delays are beyond the appellant's control, therefore the need arose for issuing the above-mentioned Decree No. (28) of 2018.

The above-mentioned Decree No. (28) of 2018 regulates certain aspects related to the e-registration of appeals and the time limits for payment of the relevant prescribed fees and deposits. It addresses practical issues that have emerged in the process of registering appeals through the electronic system adopted by the Dubai Courts, such as the lapse of the right to appeal due to failure to pay the relevant fees and deposits within the legally prescribed time limits. This delay often occurs because the Case Management Office of the competent court requires time to review and examine the appeal documents to verify that the case meets all the requirements prescribed by the legislation in force. Consequently, the competent court may rule that the right to appeal has lapsed, or that the appeal is inadmissible in form due to failure to pay the relevant fees and deposits within the legally prescribed time limits.

To address the said issues, the above-mentioned Decree No. (28) of 2018 stipulates that such appeals will be admissible in form provided they are registered within the time limits set by the legislation in force and the prescribed fees and deposits are paid within three (3) working days from the date on which the appellant receives a payment notice from the Case Management Office of the competent court. This will be further detailed in this Memorandum.

Grounds for Requesting Interpretation of Article (1) of the Decree:

The Supreme Legislation Committee in the Emirate of Dubai has received a memorandum from the Chairman of the Board of Directors of the International Centre for Training and Studies (ICTS), dated 15/03/2020, referencing a decision issued by the Court of Appeal in Dubai. This decision ruled that the scope of application of the above-mentioned Decree No. (28) of 2018 does not extend to civil appeals brought before the Court of Appeal.

By virtue of the powers vested in the Supreme Legislation Committee in the Emirate of Dubai under its establishing Decree No. (23) of 2014; and with to the objective of ensuring effective implementation of the legislation in force in the Emirate of Dubai through a unified interpretation of its provisions, we hereby present our interpretation of Article (1) of the above-mentioned Decree. This interpretation aims to determine whether it applies to all types of civil appeals brought before the Dubai Courts generally, or its scope of application is restricted solely to civil appeals brought before the Court of Cassation.

The Article Under Interpretation

Article (1) of Decree No. (28) of 2018 Concerning the Admissibility of Civil Appeals Brought before the Dubai Courts stipulates the following:

"Registered civil appeals brought against the judgements and decisions rendered by the Dubai Courts will be admissible in form, in terms of the time limits for payment of fees and deposits, subject to the following:

1. **An appeal must be directly registered with the Case Management Office, or through the electronic system adopted by the Dubai Courts, within the time limits prescribed for appeal under the legislation in force.**

2. **The appellant must pay the legally prescribed fees and deposits within three (3) working days from the date of being served a payment notice by the Case Management Office of the competent court, unless any other time limit is prescribed by the President of the Dubai Courts."**

The legislative intent and purpose behind this Article is to establish the time limit for the payment of fees and deposits prescribed for the civil appeals brought against the judgements and decisions rendered by the Dubai Courts. The Article is designed to ensure that such appeals, which fall under the provisions of Chapter (12) of Federal Law No. (11) of 1992 Issuing the Civil Procedure Code and its amendments, are admissible in form. The Article in question applies universally to all civil appeals, whether brought before the Court of Appeal, the Court of Cassation, or the court that rendered the judgement against which a motion for reconsideration is filed.

On the one hand, this interpretation is supported by the fact that the initial part of the provision "Registered civil appeals brought against the judgements and decisions rendered by the Dubai Courts..." refers broadly to civil appeals without restricting it to a specific type. On the other hand, the legislative intent and purpose of this Article are to ensure that litigants are not disadvantaged by establishing a clear time limit for an appeal to be considered admissible in form. This objective is best achieved regardless of the court before which the appeal is brought, given that the payment of prescribed fees and deposits is required for formal admissibility of all types of civil appeals, as established by Articles (161), (168), and (177) of the above-mentioned Federal Law No. (11) of 1992 and its amendments.

Moreover, Article (1) of the above-mentioned Decree No. (28) of 2018 stipulates two conditions for a civil appeal to be considered admissible in form by the competent court: the payment of the relevant prescribed fees and deposits. Specifically, paragraph (1) of Article (1) requires the appellant to register the appeal with the Case Management Office of the competent court, either directly or through the electronic system adopted by the Dubai Courts within the legally prescribed time limit. Paragraph (2) of the same article sets out the second condition, which mandates that the appellant must pay the fees and deposits legally prescribed for the registration of an appeal within three (3) working days from the date of being served a payment notice by the Case Management Office of the competent court, unless payment of the fees and deposits is deferred to a later date with the approval of the President of the Dubai Courts. The purpose of stipulating the said time limit is to ensure that the appellant adheres to the requirements for the formal admissibility of the appeal, specifically the payment of the prescribed fees and deposits.

Thus, satisfying the two aforementioned requirements is essential for the civil appeals brought against judgements and decisions rendered by the Dubai Courts to be admissible in form. Failure to meet either requirement will result in the appeal being deemed inadmissible to the competent court.

According to the general rules of legislative interpretation, a statutory text comprises words, phrases, and expressions used by the legislator to articulate a specific provision. Therefore,

interpreting a legislative text to uncover the legislator's intent begins with examining the plain meaning of the text, as derived from the expressions and phrases employed. The legislator drafts a legislative provision to establish a particular rule for the purpose of its enactment, by carefully using precise language to clearly convey this rule. However, if the wording of the legislation does not sufficiently reveal the intended rule, interpretation must extend to extra-linguistic elements such as the context, the underlying spirit of the legislation, the general objectives of the provision, the rationale behind its enactment, and the interests the legislator seeks to achieve.

Therefore, in examining the wording of the article in question for purposes of interpreting it and determining its scope of application, the rules stipulated by the article must first be derived from the direct meaning indicated by its terms. When a provision is clearly understood from the wording of the text, it must be upheld and implemented as such. The direct interpretation of the provision may not be departed from under the pretext of inferring an underlying rule that might represent the legislator's broader intent and purpose. A legislative interpreter's duty is to ensure the proper implementation of the legislation, not to amend it; and to make judgements in accordance with the law rather than to override it.

In examining Article (1) of the above-mentioned Decree, it becomes clear that its wording is general and applies to all types and levels of civil appeals that are registered with any competent court within the Dubai Courts that has jurisdiction to consider such appeals. Whereas the general rule of legislative interpretation dictates that an absolute provision must be interpreted according to its broad terms, unless there is an explicit statement or indication in the text that restricts its application; and whereas an interpretation of the legal text must not contradict the legislator's intent, therefore, the clarity of wording and conclusive generality of the provision of Article (1) of the above-mentioned Decree No. (28) of 2018 indicate that it extends to all types of civil appeals against the judgements and decisions rendered by the Dubai Courts. Restricting its application to a specific type of civil appeals to the exclusion of other types contradicts the legislator's purpose and intent.

Whereas the plain textual meaning of the said Article clearly indicates that it applies to all courts before which civil appeals may be brought, now therefore, we affirm that the phrase "competent court" refers universally to any of the Dubai Courts, including the Court of Appeal,

or the Court of Cassation, or the court that rendered the judgement against which a motion for reconsideration is filed.

To conclude, the provisions of Article (1) of the above-mentioned Decree No. (28) of 2018 apply to all civil appeals registered with any competent court within the Dubai Courts, irrespective of its level.