

Union Supreme Court Cancelling a Supreme Court Judgment and Confirming the Capacity of the Commercial Agencies Committee

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Introduction

The capacity of the Commercial Agencies Committee is defined in Article 28 of the Commercial Agency Law (Federal Law No. 18 of 1981) as:

“The Committee shall be competent to hear any dispute arising from the commercial agency registered with the Ministry. Parties may not bring the claim before the court until after the issue is referred to the Committee of Commercial Agencies. The Committee shall hear the dispute within sixty (60) days from the date of the request for hearing the dispute (in the event that the request meets required formalities) or from the date on which the required documents are duly completed. The Committee may seek the help of any person it deems fit in order to fulfill the duties assigned thereto.

The Committee’s decision may be challenged before the competent court within thirty (30) days from the date on which the Committee’s decision is notified; otherwise the Committee’s decision shall be final and not subject to further challenge.”

However, the extent of the scope of such capacity is not completely understood, as proven by conflicting judgments issued by the Dubai and Abu Dhabi Courts. A Dubai Court judgment found that the Commercial Agencies Committee must look into any dispute related to commercial agencies prior to proceeding to the Courts. An Abu Dhabi Court judgment revoked a decision by the Commercial Agencies Committee due to it not having capacity to hear a compensation claim.

Background

A Commercial Agent filed a compensation claim before the Dubai Court against parties who infringed its commercial agency. However, the Dubai Court of First Instance issued a judgment rejecting the case due to the Commercial Agent not following the correct legal process. The judgment stated the matter should have been referred to the Ministry of Economy (‘Commercial Agencies Committee’) that specialises in matters of Commercial Agency prior to proceeding to the Courts, in accordance with Article 28 of the Commercial Agency Law. This judgment was upheld before the Dubai Court of Appeal and the Cassation

Court.

Subsequently, the Commercial Agent filed a complaint before the Commercial Agencies Committee, whereby the same appointed an expert panel to investigate the said infringing parties. After its investigation the expert panel issued a report confirming the infringement of the commercial agency which entitled the Commercial Agent to recover AED 44,577,125 as compensation from the infringing parties.

The infringing parties filed a case before the Abu Dhabi Court challenging the decision of the Commercial Agencies Committee stating the same is not competent to hear a compensation complaint, as the Commercial Agencies Committee can only hear matters between the agent and the principal. The Abu Dhabi Court of First Instance issued its judgment and rejected the cases and upheld the decision of the Commercial Agencies Committee which was subsequently upheld by the Abu Dhabi Court of Appeal.

However, the Abu Dhabi Supreme Court issued a judgment revoking the judgment issued by the Court of Appeal as well as the decision of the Commercial Agencies Committee, stating the Commercial Agencies Committee does not have the capacity to hear a compensation claim as Article 28 states that the reason for the dispute should be “arising from the commercial agency”. The Abu Dhabi Supreme Court found that the law specifies the capacity of the Commercial Agencies Committee to look into disputes related to organising, changing, amending or cancelling a commercial agency and does not extend to disputes related to assessing the compensation for the damages caused by a commercial agency.

Union Supreme Court

The Commercial Agent filed a conflict of jurisdiction case before the Union Supreme Court in Case No. 5/2018 ('Conflict of Jurisdiction'), claiming that there is a contradiction between the judgments issued by the Dubai Court and that of the Abu Dhabi Court. Although the Dubai Court instructed the Commercial Agent to proceed to the Commercial Agencies Committee, the Abu Dhabi Court stated the Commercial Agencies Committee does not have the capacity to look into compensation cases. In accordance with Article 99 of the UAE Constitution and Article 33 (10) of Federal Law No. 10 of 1973 establishing the Supreme Federal Court, the Supreme Court has the capacity to look into and decide on any conflict of judgments:

“The Supreme Court only shall have the jurisdiction to adjudicate the following matters:

10 – The jurisdiction dispute between a judicial authority in an emirate and a judicial authority in another emirate or among the judicial authorities in one emirate.”

The Union Supreme Court issued a judgment wherein the court specified the Commercial Agencies Committee in the Ministry of Economy has capacity to hear the dispute between the parties. The court found the Commercial Agencies Committee has the capacity to look into any dispute arising from a commercial agency, whether or not the parties to the dispute are parties to a commercial agency. As this case relates to the infringement of a commercial agency, the Commercial Agencies Committee has the capacity to look into this matter. Additionally, such parties may not file a case before the courts prior to presenting the same to the Commercial Agencies Committee.

Thus, the court annulled the judgment issued by the Abu Dhabi Supreme Court, because of the lack of capacity of the Commercial Agencies Committee to hear the dispute, and remitted the case back to the Abu Dhabi Supreme Court to determine the matter in light of this judgment.

Conclusion

The judgment issued by the Union Supreme Court in Case No. 5/2018 (Conflict of Jurisdiction) conclusively confirms the capacity of the Commercial Agencies Committee as the competent body to look into any dispute related to a registered commercial agency, irrespective of the parties to such dispute. Moreover, the parties to the dispute may not proceed to the Courts in any case related to commercial agencies prior to presenting such dispute to the Commercial Agencies Committee.

Al Tamimi & Company's [Litigation team](#) regularly advises on disputes related to commercial agencies. For further information, please contact [Zafer Sheikh Oghli \(z.oghli@tamimi.com\)](mailto:z.oghli@tamimi.com), [Nasser Yahia \(ny.yahia@tamimi.com\)](mailto:ny.yahia@tamimi.com) or [Sara Omer Ali \(s.omeralli@tamimi.com\)](mailto:s.omeralli@tamimi.com).