UAE Supreme Court orders Government agency to pay company damages for license revocation

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Brief

A company in Abu Dhabi providing electronic services since 2009 had its commercial license revoked by its licensing authority.

The company challenged the revocation decision for being unfounded before the Federal Courts.

The company requested from the Federal Courts:

(1) cancellation of the license revocation decision, and

(2) compensation of 100 million Dirhams.

The Federal Primary and Appeals Courts ordered the cancellation of the license revocation decision – but rejected granting the company any damages.

The Federal Supreme Court overturned the rulings of the lower courts and awarded the company compensation of AED 500,000 in damages for loss of profit.

Liability to compensate

In considering the liability of the government agency to compensate, the Supreme Court stated:

“And since it is established in administrative law jurisprudence and case law, and the position of this court, that when a judgment is issued to cancel a decision issued by the administration on its non-contractual actions and the judgment acquired the force of res judicata, the element of error in the issuing of the administrative decision and its violation of the law is established and the liability for compensation for damages manifests.”

Right to monetary damages

In addressing the right to monetary damages, the Supreme Court ruled:

“And since the damage as the second pillar of responsibility is the breach of the financial interest of the injured person, it includes the loss suffered by the injured and the loss of profit, provided that the damage is real, that it actually occurred, and it was found to be proven with certainty, or that it will inevitably occur in the future.”

Legislative basis

In quantifying the damages owed to the company, the Supreme Court relied on Article 282 of the Civil Transactions Law and accounted for a court-appointed expert report (obtained at the lower courts), and estimated damages as follows:

“Article 282 of the Civil Transactions Law states that every act that results in harm to a third party obliges the perpetrator to repair the prejudice, and since the government agency had withdrawn the company’s license with a decision that the court canceled by a judgment that had the force of res judicata, and this [cancelled] administrative decision was what led to the damages sustained by the company, and therefrom, compensation for damage is dependent on the extent of the damage, and that in order to determine its elements, the court delegated an expert who … stated in his report that the decision revoking the company’s license prevented it from

providing services to the public and lead to loss of the company's clients that it held since 2009 … since the compensation is estimated for the damage incurred by the aggrieved party, and there is no provision in the law that obliges a specific criteria in estimating compensation, the court sets it at an amount of 500,000 Dirhams according to the elements of the aforementioned damage…"

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