TERMINATION OF THE COMPANIES UNDER THE UAE FEDERAL DECREE-LAW NO. (32) OF 2021 CONCERNING COMMERCIAL COMPANIES: THE IMPACT ON STAKEHOLDERS

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ABSTRACT

Purpose: This Research investigates the termination of companies under the UAE Federal Decree-Law No. (32) of 2021 concerning Commercial Companies, and how this affects the labour force and causes them many psychological and human troubles.

Theoretical framework: The current research consists of an introduction and two sections, with conclusions and recommendations. The first section deals with the general reasons for the termination of a company, starting with a definition to the concept of termination. The second section focuses on the personal reasons for the termination of a company. We shall end our research with specific conclusions and recommendations.

Design/Methodology/Approach: It should be noted that a descriptive/analytical approach has been adopted in this study, clarifying the concept of termination, and then addressing the general reasons that lead to such procedure, i.e., the termination of a company.

Findings the paper: companies come to an end with the expiration of the period agreed upon by force of law, and by achieving the purpose of its establishment. Besides, they are terminated due to total or partial loss of capital. In some cases, a percentage of loss has been specified, as in the cases related to limited liability and joint stock companies.

Research, Practical & Social implications: We suggest that a new clause shall be added to Article No. 302, related to the impossibility of the company continuing its activity in certain circumstances, including force majeure, Act of God, and other issues that the legislator deems necessary to state. Determining a period, in which the company's manager is obligated to submit the termination issue to the general assembly if the company's losses amount to half or three-quarters of the capital, and if the manager does not do so during that period assigned, partners with a quarter of the capital are entitled to invite the general assembly for a meeting to dissolve the company.

Originality/Value: We propose to amend the first paragraph of Article (290) of the Decree- Law and make it obligatory for companies to announce their intention for merging in the newspapers to notify the creditors before the decision is taken by the company general assembly of the
company within a certain period, for example, fifteen days to protect others and creditors and to avoid some creditors from objecting before the court regarding stopping the merger. This will benefit all parties, whether the creditors or companies wishing to merge.

Keywords: termination, the UAE federal decree, commercial companies.

RESISÃO DAS EMPRESAS AO ABRIGO DO DECRETO-LEI FEDERAL N.º (32) DE 2021 RELATIVO ÀS EMPRESAS COMERCIAIS: O IMPACTO NAS PARTES INTERESSADAS

RESUMO

Finalidade: Esta pesquisa investiga a rescisão de empresas nos termos do Decreto-Lei Federal n.º (32) de 2021 relativo a Empresas Comerciais, e como isso afeta a força de trabalho e lhes causa muitos problemas psicológicos e humanos.

Estrutura teórica: A pesquisa atual consiste em uma introdução e duas seções, com conclusões e recomendações. A primeira seção trata das razões gerais para a cessação de uma empresa, começando com uma definição do conceito de cessação. A segunda seção se concentra nos motivos pessoais para a rescisão de uma empresa. Terminaremos a nossa investigação com conclusões e recomendações específicas.

Design/Metodologia/Abordagem: Deve-se observar que uma abordagem descritiva/analítica foi adotada neste estudo, esclarecendo o conceito de rescisão e, em seguida, abordando as razões gerais que levaram a tal procedimento, ou seja, a rescisão de uma empresa.

Constatações do documento: as empresas terminam com o término do período acordado por força de lei e por alcançar o propósito de seu estabelecimento. Além disso, são rescindidos devido a perda total ou parcial de capital. Em alguns casos, foi especificada uma percentagem de perdas, como nos casos relacionados com a responsabilidade limitada e as sociedades por ações.

Investigação, implicações práticas e sociais: Sugerimos que seja aditada uma nova cláusula ao artigo n.º 302, relacionada com a impossibilidade de a empresa continuar a sua atividade em determinadas circunstâncias, incluindo força maior, Ato de Deus e outras questões que o legislador considere necessário declarar. Determinar um período em que o gerente da empresa é obrigado a submeter a questão de rescisão à assembleia geral se as perdas da empresa atingirem metade ou três quartos do capital, e se o gerente não o fizer durante esse período atribuído, os sócios com um quarto do capital têm o direito de convidar a assembleia geral para uma reunião para dissolver a empresa.

Originalidade/Valor: Propomos alterar o primeiro parágrafo do artigo (290) do Decreto-Lei e tornar obrigatório que as empresas anunciem a sua intenção de fusão nos jornais notifiquem os credores antes de a decisão ser tomada pela assembleia geral da empresa dentro de um determinado prazo, por exemplo, quinze dias para proteger outros e credores e para evitar que alguns credores se oponham perante o tribunal em relação à cessação da fusão. Tal beneficiará todas as partes, quer os credores quer as empresas que pretendam fundir-se.

Palavras-chave: rescisão, decreto federal dos EAU, empresas comerciais.
1 INTRODUCTION

It is quite familiar nowadays that companies of all kinds play an essential role in the development of Economic, social, and political aspects. They are considered indeed the main pillars of economic stability and growth of countries. As a matter of fact, companies these days are totally different from those in the past, as they have exceeded in number, featured with huge capitals, and millions of people participating in these companies. Accordingly, certain Laws regarding commercial companies have been issued to identify the provisions that shall be followed in the establishment, implementation of activities, expiry, and liquidation, in addition to specifying the authorities that are concerned in supervising them and thus protecting public interests.

There is no doubt that any established company should have specific purposes and goals. Thus, it is possible that such a project, represented in this company might come one day to an end, due to many reasons, such as the emergency of disputes, arising between partners. Besides any change that might occur to the eligibility of a partner should inevitably lead to terminating the project and starting the liquidation procedures.

It should be noted, however, that selecting this topic, i.e., the “Termination of Companies under the UAE Law” is an important contribution in this field, simply because companies are considered nowadays the backbone, which the countries’ economies do greatly rely on.

2 RESEARCH BACKGROUND

There might be some ambiguity and lack of clarity for readers of some texts related to Companies Termination, and therefore we shall attempt to explain these ambiguous in detail so that readers can attain a scientific legal view, which will enable them to ultimately comprehend the provisions in question.

We shall attempt to reply to any question that might be raised about the termination of the companies and the reasons that lead to taking such an act. Both general as well as personal reasons shall be taken into consideration and in accordance with the Federal Decree-Law No. 32 of 2021.

2.1 RESEARCH JUSTIFICATION

The significance of the Current Research is derived from the fact, and as stipulated in the Legal Provisions of UAE Law, that any company might be terminated or come to
an end in one way or another, whereas the reasons are of different types, either general ones or based on personal considerations. For example, one partner or more might express their inclination to put an end to the company's activity, whether amicably or even through a Judicial Dispute.

2.2 RESEARCH OBJECTIVES

The aim of this study is to investigate the provisions related to a company's termination, clarifying the legal framework of the whole process through careful analysis and explanation of the legal articles as stipulated in the UAE Company’s law.

2.3 RESEARCH METHODOLOGY

In our Current Research, we have adopted a descriptive-analytical approach in order to comprehensively describe and analyse the reasons that result leading to the termination of the company.

2.4 RESEARCH PLAN

The current research consists of an introduction and two sections, with conclusions and recommendations. The first section deals with the general reasons for the termination of a company, starting with a definition of the concept of termination. The second section focuses on the personal reasons for the termination of a company. We shall end our research with specific conclusions and recommendations.

3 LITERATURE REVIEW

3.1 SECTION ONE: THE GENERAL REASONS FOR THE TERMINATION OF A COMPANY

Before investigating the general reasons for the termination of the company, we shall attempt to clarify its concept.

3.2 THE CONCEPT OF THE TERMINATION OF THE COMPANY

The termination of the company means the dissolution of a legal bond, according to which this company has been established. Whenever this bond comes to an end for one reason or another, the company is terminated, and the stage of liquidation shall be commenced.
However, we should take into consideration that the reasons leading to the termination of the partnership company, such as the partner’s death, bankruptcy, or interdiction cannot be applied to financial companies, i.e., termination in this case is inapplicable as this type of companies is based on financial considerations (Badri, Marwan, 2010).

In fact, the Emirati legislator has addressed the reasons for the company termination without attempting to come up with a specific definition of the termination issue. Article (302) of Decree-Law No. 32 of 2021 provides That:

“Without prejudice to the provisions pertaining to the termination of each company, a company shall be dissolved for one of the following reasons:

1. The expiry of the term provided for in the Memorandum of Association or Statute of the Company, unless such term is renewed in accordance with the rules provided in either of them.

2. The termination of the object for which the company was established.

3. The loss of all or most of the company capital, in such a manner that renders the investment, or the remainder thereof not profitable.

4. Merger in accordance with the provisions of this Decree-Law.

5. Unanimous consent by the partners to terminate its period, unless the contract stipulates that a certain majority will suffice.

6. Issuance of a court judgment to dissolve the company.

On the other hand, the UAE Federal Civil Transactions Law No. 5 of 1985, states in Article No. 673 that “a company shall be terminated due to one of the following reasons:

1. The expiry of its period or the end of the work for which it has been established

2. Loss of the company’s capital or the capital of one of the partners before being delivered.

3. Death, insanity, bankruptcy, insolvency, interdiction, or withdrawal of one of the partners.

4. Unanimous consent by the partners to terminate the Company.

5. Issuance of a court judgment to dissolve the Company.

It is remarkable to note that Article (674) of the UAE Federal Civil Transactions Law has stipulated that “It shall be permissible prior to the expiration of the period laid
down for the company to extend it for a further fixed period, by way of continuing the company”, otherwise a new company shall be established.

Besides, Article (303) of the UAE company law, regarding the dissolution of joint liability companies and Limited partnership companies, stipulates that:

“Without prejudice to the rights of third parties, and taking into account the provisions of this decree-law and the contracts concluded between partners, a joint liability company and the limited partnership company shall be dissolved for one of the following reasons:

1. The death, bankruptcy, or insolvency of any of the partners therein, or losing his legal capacity, unless agreed otherwise in the Memorandum of Association of the Company, and it is permissible to provide in the contract for the continuity of the company with the heirs of the deceased partners, even if all or some of the heirs-are minors. If the deceased is a joint partner and the heir is a minor, the minor shall be deemed as a silent partner to the extent of his inherited share. In these cases, the continuity of the company shall not require the issuance of a court order to keep the minor's money in the company.

2. Withdrawal of the sole joint partner in the limited partnership company.

3. The expiration of six months, with one partner, without amending the legal status of the company

A company could be terminated due to one of the following general reasons:

3.2.1 First: Expiration of the period as specified in the contract or in the articles of the association memorandum, unless this period is renewed as per the rules included in the contract or in the memorandum of association

Partners may specify the company duration in its founding contract and extend it before or after its expiry. Besides, it is possible that the company might continue without identifying a term for its expiration. However, we should note that a company expires by force of law, as its duration comes to an end, even if the purpose of its establishment has not been achieved. However, this doesn’t prevent the partners from agreeing to extend the term of the company for another period, but this must be with the agreement of all partners before the expiry period specified in the contract. If the partners expressly agree to extend the term of the company, legal measures must be taken regarding the
amendment of the company contract (Article 674/1 of the UAE Federal Civil Transactions Law.).

On the other hand, if the partners have come to an agreement to extend the company’s term after the original period in which it has already expired, then there will be totally a new company with a new legal personality, simply because the old company’s term has expired by force of law, and therefore, new procedures must be taken, to establish the company again by registering and publishing (Hassan, Suzanne Ali, 2023; Hattab, Rasha Muhammad & Farah, Ahmed Qasim, 2015; Al-Bandari, Mustafa, 2005)

The partners, however, may continue to do their business despite the expiration of the company’s term specified for its expiry, or the end of the project for which the company has been established. In this case, the company’s contract shall be considered as extended impliedly year by year under the same conditions (Article 674/2 of the UAE Federal Civil Transactions Law). Its noteworthy that Article (42/1/E) of UAE Decree-law, provides that “1- A joint liability company's memorandum of association shall include the following data: e- The Company’s commencement and expiry date, if any”. From this it appears that specifying the term of the company remains optional by the partners in the joint liability company, the limited partnership company, the limited liability company, and the private joint stock company, with the exception of the public joint stock company, where the legislator has obligated the partners by providing in Article (108) of the Decree-law that “The term of the company shall be determined in its memorandum of association and statute. By virtue of a special decision, such term may be extended or shortened if the object of the company so requires” (Ghannam, Sherif Mohamed, 2021).

Extending the period of the company, whether explicitly or implicitly, may lead to harm to the creditors of the company who are prevented from executing on the share of the partner to obtain their rights. Therefore, to preserve and recover the creditors’ rights, article (674/3) of the Civil Transactions Law provides that “a creditor of one the partners may object to the company’s extension, and his objection shall result in stopping the effect of extension against him”. Regarding the partner, the company is considered dissolved, and the objecting creditor can execute on his share, and this entails excluding the partner, unless he provides an alternative share., and the company remains exists with the rest of the partners, as the creditor’s objection to its continuation has no effect (Hassan, Suzanne Ali, 2023; Hattab, Rasha Muhammad & Farah, Ahmed Qasim, 2015.).
3.2.2 Second: ending of the purpose for which the company has been established

A company shall be terminated by force of law when the purpose for which it has been established has come to an end. If a company has been established to build a residential complex, for example, then by the end of the project, the company would expire even if its term has not ended as there is no justification for its existence. On the contrary, if the company has not completed the project within the specified period, it shall continue for another period until the project is completed. However, in case of completing the project, and the partners are wished to continue to carry out another similar project, then this shall be considered an implicit extension of the company year after year under the same conditions for which it was incorporated (Article 674/2 of the UAE Civil Transactions Law; (Hassan, Suzanne Ali, 2023; Al-Nuaimi, Alaa, 2015).

3.2.3 Third: destruction of all or most of the company's funds to the extent that it becomes impractical to invest the remaining funds effectively

The establishment of any Company shall require sufficient capital in order to carry on its activities in full. A company’s capital consists of cash, in-kind funding, or work, as in joint partnership and limited partnership for the joint partner only (Article (18/2) of the commercial company’s law). There is no doubt that the company's capital is the basis to perform its activities. Accordingly, if a company’s capital perishes, whether in whole or in part, and to the extent that the remainder of the capital is sufficient for the company to continue its activities, this will lead to the dissolution of the company by force of law.

Loss of capital might take the form of a tangible case, such as, for example, that fire is set in the company’s factory or its stores. Sometimes, it might be a moral loss when a certain privilege that has been granted to the company to carry out an activity, is suddenly withdrawn, and then the implementation of that activity becomes almost impossible.

In some cases of capital loss, partners agree to compensate for the loss and increase the capital. In other cases, the company may ensure its funds so that the value of the money insured is sufficient to resume activities (Hassan, Suzanne Ali, 2023; Hattab, Rasha & Farah, Ahmed Qasim, 2015; Al-Nuaimi, Alaa, 201). Furthermore, a company might be terminated if a partner’s share perishes before it is delivered, and this share is quite necessary and important because the company cannot exist without it.
In general, judicial authorities have to estimate the partial loss of the company’s capital and how much of this capital has been left, to determine whether the remainder is sufficient for the company to proceed with activities. Such a case however does especially regard joint liability companies (Hattab, Rasha & Farah, Ahmed Qasim, 2015).

Article (673/b) of the UAE Civil Transactions Law provides that the company shall expire "with the loss of all the capital or the capital of one of the partners before its delivery”.

It may be up to the judicial authorities to estimate the size of the partial loss of the company’s capital and what is left of the capital, as to whether the remainder is sufficient for the company’s continuity in its activity or not, and this is related to both joint liability partnerships and limited partnership companies.

In addition to what has been stipulated in Article (303) of the Decree-Law in its six clauses regarding companies’ termination, the UAE Legislator has identified a certain percentage of the company’s losses that might lead to its dissolution, being stated in articles (308) and (309) of the decree-Law in question with regard to limited liability as well as joint stock companies. We shall investigate both types of companies in detail and as follows:

Limited liability company

Article (308) provides that:

1- If the losses of a Limited Liability Company reach half of the capital, the managers shall refer the dissolution matter to the general assembly of the partners. The dissolution decision shall be passed by the majority prescribed for amending the Memorandum of Association of the Company.

2- If the losses reach three-quarters of the capital, the partners holding one-quarter of the capital may request to dissolve the Company”.

Two cases have been taken into consideration when the loss reaches half of the capital, and when it reaches three quarters.

Regarding the first case, i.e. when the losses do reach half the capital: the manager is obligated to submit the dissolution issue of the company to the general assembly for voting, and such procedure is obligatory to be taken by the manager and not optional at all, whereas the dissolution issue shall be determined by the general assembly, which includes all partners, where each partner has the right to attend its meetings regardless of the number of his shares. If the partners who attend the general assembly meeting do own 75% of the shares, then the meeting is deemed valid, and the decision of dissolving the company can be issued if the majority is available to amend the company’s contract as
referred to in Article (101) of the Decree-Law, as the decision of the general assembly is not valid if it is issued by those who own 51% of the company’s shares.

Regarding the second case, as for the dissolution of the company if the losses reach three-quarters of the capital, the company here is so close to the total loss of the company’s capital, the legislator gave the partners who own a quarter of the company’s capital the opportunity to demand the dissolution of the company in the event that the manager failed to present the matter of dissolving the company to the general assembly. The company is dissolved by the issuance of a decision by the general assembly with the approval of the majority of those who own three-quarters of the shares represented in the assembly meeting (Hassan, Suzanne Ali, 2023; Ghannam, Sherif Mohamed and Al-Qahali, Fouad, 2022).

The question that arises here is how the company will be dissolved if the general assembly does not reach a decision to dissolve the company. Will it continue its activity in the light of this loss? The answer is that it is very difficult for the company to continue its activities, it will terminate by the force of law according to Article (302/3) of the Decree-Law.

Joint-stock company

Article (309), Paragraph (1) of the Decree-Law provides the following:

“1- If the accumulated losses of the Joint-Stock Company reach half of its issued capital, the board of directors shall within (30) thirty days from the date of disclosure of periodic or annual financial statements to the Ministry of Economy or to the Authority - each within its own competencies - invite the general assembly to convene within (30) thirty days from the date of the invitation, in order to consider making a decision as regards the company’s continuation of its activity or dissolution prior to the expiry of its term. If the board of directors fails to invite the general assembly to convene or if the general assembly fails to issue a decision on the matter, each interested party may file a lawsuit before the competent court seeking the dissolution and liquidation of the Company in accordance with the provisions of this Decree-Law”.

This text indicates that the legislator has regulated the procedures that can be followed to reach a special decision regarding the company's continuation or dissolution, which is initiated by the board of directors calling for the general assembly to convene and make the appropriate decision. This is similar to the procedures followed in a limited liability company when half of the company's capital is lost. However, in the case of a joint-stock company, the legislator obligates the board of directors to call for the general assembly meeting within thirty days from the date of the board's disclosure of the periodic
or annual financial statements to the Ministry of Economy or the Securities and Commodities Authority.

A special decision regarding the continuation or dissolution of the company shall be issued by a majority vote of the shareholders who own three-quarters of the shares represented in the general assembly meeting. This decision can be either to continue the company's activities or to dissolve it before the specified deadline.

In case no decision is reached or if the board of directors fails to call for the general assembly meeting to dissolve the company, any interested party is allowed to file a lawsuit before the competent court to request the dissolution and liquidation of the company in accordance with the provisions of the Decree-Law.

If the board of directors recommends the continuation of the company's activities despite the significant losses it has incurred, it is required to include with the invitation to the general assembly an approved restructuring plan. This plan should encompass a feasibility study, a debt resolution plan, a timetable for implementation, and a report from the auditor (Para. 2/A of Article 309) of the Decree-Law.

If the Board of Directors recommends the dissolution and liquidation of the company before the specified deadline, it is required to include with the invitation a report from the auditor and a liquidation plan, along with its approved timetable, as endorsed by the Board of Directors and its financial advisor. The plan should also include the nomination of one or more liquidators approved by the authority (Para. 2/B of Article 309) of the Decree-Law.

The legislator has also required the board of directors to oversee the implementation of the restructuring plan and notify the authority every three months of the results of implementing this plan and the extent of compliance with its timetable. The legislator has authorized the board of directors, after obtaining the approval of the authority, to appoint a financial advisor to assist them in preparing and executing the plan. The authority also has the right to dismiss the financial advisor and appoint another financial advisor if they fail to perform their assigned duties (Para. 3 of Article 309) of the Decree-Law.

Through this explanation for both companies, it becomes clear to us that there are similarities and differences in some procedures, which are as follows:

1- Similarities between the two companies:
   a- There is a loss of the company’s capital if the loss reaches half of the capital.
b- The obligation of the Board of Directors to call the General Assembly for a meeting.

c- The decision of the board of directors to continue or dissolve the company is issued by the general assembly.

2- The difference between the two companies:

a) The legislator allowed in the limited liability company for partners who own a quarter of the company's capital to request the dissolution of the company from the general assembly, rather than from the judiciary. On the other hand, in the joint-stock company, the legislator allowed any interested party to file a lawsuit before the competent court to request the dissolution and liquidation of the company.

b) The legislator obligated the board of directors of the joint-stock company to call for a general assembly meeting within thirty days from the date of disclosure of the periodic or annual financial statements to the Ministry of Economy or the Securities and Commodities Authority. However, the legislator did not specify a specific period for the limited liability company (Hassan, Suzanne Ali, 2023; Ghannam, Sherif Mohamed and Al-Qahali, Fouad, 202).

In my perspective, it is preferable for the legislator to specify a period in which the company director is required to present the resolution for the dissolution of the company to the general assembly, in case the company's losses reach half or three-quarters of the capital. If the director fails to do so within that period, it should be the right of all shareholders holding a quarter of the capital to request the dissolution of the company from the general assembly. This requirement would ensure that the company director is obliged to present the resolution for the dissolution of the company to the general assembly without any delay or evasion.

3.2.4 Fourth: merger in accordance with the provisions of this decree-law

A merger is defined as the combination of two or more companies into another company, whether they have the same legal form or a different form. In this process, the merged company ceases to exist, and its obligations are transferred to the acquiring company. This means that the legal personality of the company or companies to be merged is terminated either through annexation or consolidation.
Merger by annexation is the process of combining one or more companies into an existing company, where the merged company is absorbed by the acquiring company. The legal personality of the merged company is terminated, and its positive and negative financial obligations, as well as all its rights, are transferred to the acquiring company, which retains its own legal personality.

Merger by consolidation or union refers to the method in which two or more companies are merged into a newly established company, which replaces the merged companies in their rights, obligations, and protection of the creditors of the merged company.

The merger contract must specify its terms and conditions, as well as the provisions related to the establishment contract and bylaws of the merged or new company after the merger. It should also include the names and addresses of each member of the board of directors and the method of transferring shares and stocks between the companies (Article 286 of the Decree-Law). It is worth mentioning that companies can merge without the need for a merger contract in cases where a holding company merges with its wholly owned subsidiaries. In this case, a holding company can merge with one or more of its wholly-owned companies as a single entity, based on a special resolution by these companies, usually requiring amendments to the articles of incorporation of each company. Similarly, when two or more companies are fully owned by a holding company, they can merge (Article 288 of the Decree-law).

The legislator has required each merging and merged company to notify its creditors of the merger decision within (10) working days from the date of approval by the General Assembly (Article 290 of the Decree-law). The legislator has also allowed creditors to object to the merger decision and granted the right to objecting creditors who have not received their rights or had their claims settled to apply to the court for an injunction to halt the merger. The court has the authority to issue an order to suspend the merger if it deems that the merger would harm the interests of the applicant (Article 291, para. 1 and 2 of the Decree-law).

In our opinion, it would be preferable to notify creditors before the decision is made by the General Assembly regarding the merger. This can be done by notifying creditors from the companies that have initially agreed to merge with each other, allowing creditors a specified period, for example, (15) days, to express any objections. In this case, it may be possible to consider and resolve objections among the parties involved,
rather than resorting to the court and filing a request to halt the merger. This approach can help avoid potential harm or damage to the creditors or any of the parties involved.

Indeed, resolving creditor objections or concerns amicably can help avoid resorting to the court and benefit both the merging and merged companies. By understanding the position of the creditors, which can have negative implications for either company in the merger, it is possible to assess the feasibility of the merger. In some cases, if an agreement cannot be reached between the parties involved, the merger may not proceed. Additionally, both parties can benefit from utilizing the time available to address any concerns and ensure a smoother merger process.

It is worth mentioning that the purpose of a merger may be to achieve several objectives, including:

1- Providing adequate capital: mergers can help secure sufficient capital that enables companies to achieve their goals. It allows them to finance large projects, invest in research and development, and improve their infrastructure and resources.
2- Accessing new markets: mergers provide companies with opportunities to enter new markets and expand their operational scope. They can access new distribution networks and potential customers in untapped markets, thereby enhancing their growth.
3- Mitigating collapse and bankruptcy risks: mergers offer companies a chance to avoid collapse and bankruptcy by combining their resources and capabilities. It strengthens their financial position and enables them to overcome financial difficulties.
4- Increasing shareholders' wealth: mergers generally result in shared benefits that contribute to the interests of the new business entity. This can lead to an increase in shareholders' wealth and improved profitability.
5- Enhancing competitive advantage: mergers can enhance the competitive capabilities of the merged company in its market. It can provide better and more competitive products and services.
6- Achieving diversity and balance: mergers allow for diversity in business operations, products, and services. The merged company can benefit from a balanced portfolio across different sectors and markets, providing protection against economic fluctuations and uncertainties.
3.2.5 Fifth: unanimous agreement between the partners to terminate its term, unless the company memorandum of association provides that a certain majority will suffice

The company is established by the agreement of the partners, but it may be dissolved either by the consensus of the partners or by the agreement of a certain majority of the partners if the company's Memorandum of Association so provides.

The UAE legislator granted the partners to dissolve the company before its term expired.

To dissolve the company, the agreement between the partners must be genuine, the same as they have unanimously agreed on the establishment of the company. It is, therefore, necessary to agree unanimously on its dissolution before the expiration, unless the memorandum of the association provided that the company can be dissolved by the majority of the partners, and in such a case it can be dissolved by a majority without unanimous agreement.

Furthermore, the dissolution of the company may be by agreement of the partners for several reasons, including if the company does not achieve sufficient profits, a restriction that is dissolved due to some large losses, or the desire of the partners to establish a new company that practices a new activity that can bring the partners large profits (Sayed Ahmed, Ibrahim (1999); Taha, Mustafa Kamal (2009)).

3.2.6 Sixth: issuance of a judicial ruling to dissolve the company

In addition to the termination of companies by law and the will of the partners in accordance with the principle of the authority of the will, companies may expire with the issuance of a judgment by the judiciary in certain cases specified by the law and allow the judge, after taking into account a set of circumstances, to issue his decision to dissolve the company in accordance with Article (6/302).

A shareholder or partner may request the court to dissolve the company due to the misconduct of a shareholder or partner, such as a failure of a partner to fail to fulfil their committed work towards the company or if one of the shareholders or partners engages in fraud or deception against the company. If a shareholder or partner proves such errors, the injured shareholder or partner has the right to apply to the court to dissolve the company. Dissolution may also be requested for reasons that are not attributed to any error on the part of the shareholder or partner, but rather due to unforeseen and unexpected event or emergency that makes it difficult for the company to continue its-business.
The right of a shareholder or partner to request the judicial dissolution of the company is considered a fundamental right protected by the general legal framework, and it cannot be denied or restricted. Any agreement that prohibits or restricts this right is considered void. It is important to note that judicial dissolution is a general cause for the termination of all types of commercial companies, whether they are partnerships or corporations. Therefore, a shareholder or partner is not obligated to continue their involvement in a company that has compelling reasons for its discontinuation (Salih Basim & Wali adnan, 2012). While some scholars find it difficult to identify cases that justify the dissolution of a company by a court ruling, as it is difficult for a legislator to pre-determine all the difficulties and risks that may hinder the continuation of the company among the shareholders or partners, based on that, it can generally be said that any reason that can lead to the impossibility of the shareholders or partners to continue in the company is considered a valid reason for the judicial dissolution of the company. The court has discretionary power in assessing the facts upon which the partner relies in requesting the dissolution of the company (Ibrahim Sayed, 2005).

4 DISCUSSION AND RESULTS

4.1 SECOND SECTION: SPECIAL REASONS FOR TERMINATION OF THE COMPANY

In addition to the general reasons for the termination of the company, there are special reasons related to the personal consideration for termination of the company. It is noteworthy that the mutual trust between the partners, and personal consideration is the cornerstone of the company’s establishment, continuity, and its termination. if these are lost, this will result in the termination of the personal companies, unless agreed otherwise upon. However, termination might occur due to the following reasons:

4.1.1 First: Death, Interdiction, Insolvency, or Bankruptcy of a Partner

The death of one of the partners in both the joint partnership company and the Limited partnership company leads to the termination of these companies by force of law (refer to Article 673/ C of the UAE Civil Transactions Law), and the reason for this is that it is based on personal considerations and mutual trust between partners, therefore it is not possible to compel other partners to continue in the company with the heirs of the deceased partner. Nevertheless, the company might be continued among the remaining
partners without the heirs who are given the share of the deceased partner from the company’s assets (the company’s capital and profits), and the partners may agree to include the heirs with them for the purpose of preserving continuity of the company’s activities (Hussain Belhawan, 2013).

Clause (1) of Article (303) of Decree-Law provides that it is permissible for the partners to continue the company’s activity with the heirs of the deceased partner with no need to a court order if such agreement has been included in the company’s contract, even if the heirs or some of them are minors. If the deceased has been a joint partner and his heir is a minor, the minor shall be deemed as a silent partner to the extent of his share. This means if the company was a joint liability company it must be transformed into a limited partnership company, whereby a minor person may not be a partner in a joint liability company, and he cannot be considered a trader and cannot declare bankruptcy, since the joint liability company consists of two or more full capacity natural persons (Article 39 of the Decree-Law; Hattab, Rasha Muhammad & Farah, Ahmed Qasim, 2015).

The company is also terminated in case of interdiction, insolvency, or bankruptcy of the partner, despite that these cases do not apply to all companies, being limited to only joint liability companies and limited partnership companies, as it is almost impossible for a partner to fulfill his obligations to others. Besides, in such types of companies, there are no trust or personal considerations to rely on. However, the bankruptcy of a company does not necessarily lead to termination, as it may end in reconciliation with creditors, and the company can continue its activities unless the company’s assets are liquidated, and this will lead to termination of the company (Article 303/1; (Hassan, Suzanne Ali, 2023).

It is quite obvious that the death of a partner or his withdrawal from the company due to a judgment of interdiction issued against him or a declaration of bankruptcy or insolvency does not lead to terminating the limited liability company, unless there is an article referring to that stipulated in the memorandum of association, and the partners do agree to continue with the company. It is noteworthy that the number of heirs replacing the deceased partner might lead to increasing the number of partners to more than fifty. However, the company remains valid with no need to reduce the number of partners to fifty or less, though the competent authority shall be notified within thirty days and correct
its status within three months according to Article (75) of the Decree-Law according to Nguyen. V H, Dao X. H, Nguyen. D. D, (2023)

4.1.2 Second: Withdrawal of a Company’s Partner

Article (55) of the Decree-Law regarding commercial companies and Article (673/c/e) of the Civil Transactions Law permitted the partner’s withdrawal from the company, but the partner’s right to withdraw is in accordance with certain conditions.

A partner in a partnership company may withdraw from the company by writing an agreement with all partners, either in the company contract or in a subsequent agreement. This is the main principle to withdraw from the company, but in the absence of such an agreement, the partner has the right to resort to the competent court to issue a decision of withdrawal from the company, but he must notify the remaining partners by registered mail of the withdrawal within at least sixty days prior to the date he has specified for the withdrawal. The reason for that it is unreasonable to force the partner to remain in a contractual relationship forever against his will, as this is inconsistent with the principle of personal freedom which is considered as part of the public order according to Roshan. B, Ajay. K.C, (2023).

The partner's withdrawal from the company must be in good faith. However, if the withdrawal from the company in bad faith, fraud, or at an inappropriate time, or to achieve personal interests, that might cause great losses to the company, the company may claim compensation from him for the losses and damages incurred (Hattab, Rasha Muhammad & Farah, Ahmed Qasim, 2015; Al Bandari, Mostafa, 2017).

However, the question that might be raised here is, what is the solution if the company consists of only two partners, e.g., as in the joint liability company, and one of them withdraws? In this case, indeed, the company cannot be automatically dissolved, but the other remaining partner may, within six months, brings a new partner or more to maintain the company’s continuity of its activity, otherwise the company is considered legally dissolved (Article 55/4 of the Decree-Law).

5 CONCLUSIONS

In this research, we have explained in detail the termination of commercial companies as per the UAE Law, focusing on both general and personal reasons, some of which do apply to companies of persons, such as joint liability and limited partnership
companies, while others apply to capital companies—such as limited liability and joint stock companies. We have concluded that companies come to an end with the expiration of the period agreed upon by force of law, and by achieving the purpose of its establishment. Besides, they are terminated due to total or partial loss of capital. In some cases, a percentage of loss has been specified, as in the cases related to limited liability and joint stock companies. Furthermore, companies might be dissolved according to a court decision in the event of the partner’s disagreement, as well as in the case of companies merging with each other through amalgamation or consolidation, in addition to other special reasons, such as death, interdiction, insolvency or bankruptcy of one of the partners, or withdrawal from the company.

**RECOMMENDATIONS**

We do recommend that an obligatory period shall be specified for the company, being binding as in joint stock companies to oblige partners to complete the project agreed in the company’s contract. We suggest that a new clause shall be added to Article No. 302, related to the impossibility of the company continuing its activity in certain circumstances, including force majeure, Act of God, and other issues that the legislator deems necessary to state. Determining a period, in which the company’s manager is obligated to submit the termination issue to the general assembly if the company’s losses amount to half or three-quarters of the capital, and if the manager does not do so during that period assigned, partners with a quarter of the capital are entitled to invite the general assembly for a meeting to dissolve the company. As this will oblige the company’s manager to commit to presenting the matter of dissolving the company to the general assembly without any inaction or evasion. We propose to amend the first paragraph of Article (290) of the Decree-Law and make it obligatory for companies to announce their intention for merging in the newspapers to notify the creditors before the decision is taken by the company general assembly of the company within a certain period, for example, fifteen days to protect others and creditors and to avoid some creditors from objecting before the court regarding stopping the merger. This will benefit all parties, whether the creditors or companies wishing to merge.
A research limitation related to time constraints and the lack of primary data is the reliance on secondary data sources. In some cases, researchers may face limitations in conducting their own data collection due to time constraints, resource limitations, or practical considerations. Consequently, they may have to rely on existing datasets or previously collected data. While secondary data can provide valuable insights and facilitate research efficiency, it also has inherent limitations. These limitations may include inconsistencies in data collection methods, missing variables or information, and potential biases present in the original data source. Researchers need to carefully evaluate the quality, reliability, and relevance of the available secondary data to ensure its appropriateness for addressing their research questions. Additionally, the lack of primary data collection may limit researchers' ability to explore specific aspects of their research interest or ask tailored questions. Despite these limitations, judicious use of secondary data can still yield valuable findings and contribute to the existing body of knowledge.

SUGGESTIONS FOR FUTURE WORK

A potential area for further study is to investigate the impact of company terminations on employees and their subsequent career trajectories. This research could employ a mixed-methods approach, combining quantitative data analysis with qualitative interviews or surveys. The study can examine various factors, including the emotional and psychological effects of termination, the financial implications for individuals and their families, the coping mechanisms employed by employees during the transition period, and the long-term career outcomes after termination. Researchers can explore how factors such as the availability of support programs, access to reemployment services, and individual characteristics (e.g., skills, education, prior work experience) influence employees' ability to recover and successfully reintegrate into the workforce. The findings from such a study can provide valuable insights for organizations to develop effective strategies and support systems that mitigate the negative impacts of termination and facilitate the career recovery process for affected employees.
REFERENCES


Federal Civil Transactions Law No. 5 of 1985, & its Amendments (UAE)

Federal Decree-Law No. 32 of 2021, regarding Commercial Companies (UAE)


