Foreign Judgments and Indirect Jurisdiction in Dubai (UAE): One Step Forward, One Step Back?

I. Introduction:

In 2024, the Dubai Supreme Court rendered a significant decision on the issue of indirect jurisdiction under UAE law. Commenting on that decision (see here), I noted that it offered "a welcome, and a *much-awaited clarification* regarding what can be considered one of the most controversial requirements in the UAE enforcement system" (italic in the original).

The decision commented on here touches on the same issue. Yet rather than confirming the direction suggested in the above-mentioned decision, the Court regrettably reverted to its prior, more restrictive approach. This shift raises doubts about whether a consistent jurisprudence on indirect jurisdiction is taking shape, or whether the legal framework remains fragmented and unpredictable.

II. The Case

1. Facts

The facts of the case can be summarized as follows:

The appellants (X) filed a petition before the Enforcement Judge seeking the enforcement (*exequatur*) of a judgment rendered by the Business and Property Courts in Manchester, UK. The judgment, issued against the respondent (Y), ordered the seizure of a luxury penthouse located in Dubai.

The Enforcement Judge declared the English judgment enforceable. However, this decision was overturned on appeal, on the grounds, among others, that UAE courts have jurisdiction over the matter, given that the immovable property in question was located in Dubai.[1]

Dissatisfied with the appellate ruling, X challenged the Court of Appeal's decision before the Supreme Court of Dubai.

Before the Supreme Court, X argued that provision relied on by the Court of Appeal (Art. 21 of the 2022 Federal Civil Procedure Act) does not confer exclusive jurisdiction in matters of provisional measures. They also argued the enforcement of such orders is permissible under international and bilateral treaties concluded by the UAE, and the Letter addressed by UAE Minister of Justice authorizing Dubai courts to enforce English judgments under the principle of reciprocity.[2]

2. The Ruling: *Dubai Supreme Court, Appel No. 156/2025 of 24 April 2025*

After referring to the relevant provisions governing the enforcement of foreign judgments in the UAE (article 222, article 225 of the 2022 Federal Civil Procedure Act), the Supreme Court rejected the appeal on the following grounds (with slight modifications; underline added):

> *"As consistently held by this Court, when the UAE has neither acceded to an international convention nor concluded a treaty with a foreign state concerning the enforcement of judgments, UAE courts must ensure that all the conditions set out in article 222 of the Federal Civil Procedure Act are met before ordering enforcement. Among these conditions is the requirement that UAE courts should not have jurisdiction over the dispute on which the foreign judgment was passed, in accordance with the rules of jurisdiction set forth in the Civil*

Procedure Act.

Under the applicable provisions on international jurisdiction (articles 19, 20, 21, and 24[3] of the 2022 Federal Civil Procedure Act), as consistently held by this Court, procedural matters, including questions of jurisdiction, are governed by the law of the forum before which the proceedings are initiated.[4] [In this regard], Dubai courts have jurisdiction to hear the disputes brought before them if the defendant is a foreign national residing or domiciled in Dubai, except for actions in rem concerning immovables located abroad.[5] Dubai courts also have jurisdiction to issue protective and provisional measures to be executed in the UAE, even if they do not have jurisdiction over the main claim.[6] Any agreement to the contrary shall be deemed null and void.[7] Where any of the grounds for jurisdiction as defined by the law are satisfied, UAE courts cannot decline jurisdiction, as matters of jurisdiction concern public policy (al-nizam al-'âm).[8]

That said, given the absence of any treaty between the UAE and the United Kingdom regarding the enforcement of judgments, and considering that the bilateral agreement with the UK on extradition and mutual legal assistance does not address the enforcement of judgments,[9] it is therefore necessary to refer to the conditions stipulated in Article 222 of the 2022 Federal Civil Procedure Act.

In the present case, X filed a petition seeking the enforcement of an English judgment ordering the seizure of an immovable located in Dubai. Accordingly, under the above-stated applicable legal provisions, the Dubai courts have jurisdiction over the case. In this respect, the ruling under appeal correctly applied the law when it rejected the enforcement of the foreign of the foreign judgment.

This conclusion is not affected by X's argument that the enforcement order should have been issued based on the principle of reciprocity. This is because the applicability of the reciprocity principle depends on whether UAE courts lack jurisdiction over the dispute and the foreign court properly assumes jurisdiction. As previously stated, this issue concerns public policy.

Accordingly, the grounds of appeal are without merit, and the appeal must be dismissed.

III. Comments

The decision comment on here is another illustration of the significance of indirect jurisdiction, which I previously described as "one of the most controversial requirements in the UAE enforcement system." On this point, the Court's reasoning and choice of formulation are somewhat disappointing, particularly in comparison with its previous decision on the same issue (*Dubai Supreme Appeal No. 339/2023 of 15 August 2024*).

In that earlier case, the Court clearly held that the enforcement of foreign judgment would be allowed unless UAE courts have exclusive jurisdiction over the dispute in which the foreign judgment to be declared enforceable was rendered. "Therefore, in case of concurrent jurisdiction between UAE courts and the foreign rendering court, and both courts are competent to hear the dispute, this does not, by itself, prevent the granting of the enforcement order."

In contrast, in case commented on here, the Court reverted to its traditional, more stringent approach,[10] holding that the jurisdiction of the foreign court should be denied whenever UAE courts have jurisdiction under UAE law, without distinguishing, as the new wording of the applicable provisions adopted since 2018 requires,[11] between cases falling under the exclusive jurisdiction of UAE courts and those that do not.

Instead of reverting to its old, questionable position, the Court could have approached the issue in one of two possible ways:

First, the Court could have considered that the English judgment ordering the seizure of a property located in Dubai constituted in fact an order of "protective measures", which by nature is temporary and therefore not final and conclusive in the meaning of article 222(2)(c) of the 2022 Federal Civil Procedure Act.

Second, the Court could have found that ordering "protective measures" relating to the seizure of property in Dubai falls within the exclusive jurisdiction of Dubai court.[12] On this basis and applying the same reasoning it adopted in its abovementioned decision of 15 August 2024, the Court could have denied the indirect jurisdiction of English courts.

Such an approach is preferable, as it clearly defines the impact of UAE jurisdictional rules on the indirect jurisdiction of foreign courts, rather than suggesting (imprecisely or overbroadly) that the mere taking of jurisdiction by the UAE courts would automatically exclude the jurisdiction of foreign courts.[13]

In any case, the way the Court framed its reasoning reflects the continuing influence of its long-standing approach to jurisdiction. It also suggests that the more flexible view adopted in the 15 August 2024 decision may still take time to gain a firm footing in judicial practice.

That said, given the lack of clarity in the law itself about what exactly falls within the exclusive jurisdiction of UAE courts, it is perhaps not surprising that judges sometimes fall back on familiar ground when deciding whether to refuse enforcement of foreign judgments.

Still, even if the outcome can be understood, the reasoning remains open to criticism. It risks adding further uncertainty to an area where greater consistency and predictability are badly needed, especially if the UAE seeks to consolidate its position as a global center for international dispute resolution.

————————————————————

[1] Various issues were raised in this case, notably the question of the notification of the decision, the validity of which was examined by the courts. However, these aspects will not be discussed here.

[2] On this Letter, see my comments here and here.

[3] The Court erroneously cited Article 24; it is likely that Article 23 was meant instead.

[4] This rule is actually found in the 1985 Federal Act on Civil Transactions (article 21) and not the provisions cited in the decision.

[5] See Article 19 of the 2022 Federal Civil Procedure Act. For an example of a case in which the UAE courts declined jurisdiction on the ground that the case concerned an *in rem* right over an immovable located abroad, see the *Abu Dhabi Supreme Court, Appeal No. 238/2017 of 25 March 2018*.

[6] In one case, it was declared that "the jurisdiction of national courts to order protective or provisional measures is not contingent upon the court's jurisdiction over the merits of the case, nor is it linked to the nationality of the parties or the existence of a domicile or residence within the country, but it is due, in addition to the general principle of territoriality of judicial jurisdiction, to the fact that requiring parties to await the outcome of proceedings before a foreign court may be detrimental to their interests". See *Federal Supreme Court, Appeal No. 693/24 of 9 October 2005*.

[7] Therefore, choice-of-court agreements are deemed null and void in the UAE. For a very recent application of this rule, see *Dubai Supreme Court, Appeal No. 875/2024 of 24 September 2024*. The rule applies even to choice-of-court agreements between different Emirates within the UAE. See, e.g., *Dubai Supreme Court, Appeal No. 21/2010 of 31 May 2010*, in which the Court held that jurisdictional rules cannot be derogated from by agreeing to the courts of another Emirate. The rule also applies when the parties agree to submit to the jurisdiction of a UAE court. See, e.g., *Dubai Court of Appeal, Appeals Nos. 162 and 623/2022 of 8 June 2022*. This principle has implications for the indirect jurisdiction of foreign courts, particularly where the foreign court assumes jurisdiction on the basis of a choice-of-court agreement between the parties. See, e.g., *Dubai Supreme Court, Appeal No. 52/2019 of 18 April 2019*, where the Court refused to enforce an English judgment on the grounds that the English court had assumed jurisdiction pursuant to the parties' choice-of-court agreement.

[8] For examples of cases in which the courts refused to decline jurisdiction, particularly on the grounds that the parties had agreed to the jurisdiction of a foreign court, see *Dubai Supreme Court, Appeal No. 86/1996 of 6 April 1997*. For a more recent case, see *Dubai Supreme Court, Appeal No. 1176/2024 of 4 March 2025*.

[9] Courts have ruled in the same manner in the past. See, e.g., the decision of the *Dubai Court of First Instance, Case No. 574/2017 of 28 November 2017*, cited here.

[10] On this approach with some examples, see the brief overview outlined here.

[11] On the legislative evolution of the applicable rules, see here and here.

[12] *Comp.* with Article 8(4) of the Tunisian Code of Private International Law of

1998, according to which “Tunisian courts shall have exclusive jurisdiction: (4) If the action concerns a request for protective or enforcement measures against properties situated in Tunisia”. For a translation of the relevant provisions, see Béligh Elbalti, “The Jurisdiction of Foreign Courts and the Enforcement of Their Judgments in Tunisia: A Need for Reconsideration” (2012) 8(2) *Journal of Private International Law* 221-224.

[13] For some examples on this approach, see my previous comment here and here.