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# Prohibition of public employees from practicing commercial activities in the legislation of the United Arab Emirates and the French Republic: A comparative study

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**Abstract:** Practicing commercial activities as a public employee is a major negative phenomenon that affects the public interest, institutions, and employers, and affects economic development. Both the economy and society as a whole have significant effects on countries throughout all sectors. The study aimed to identify legislation restricting commercial activity by public sector workers in the United Arab Emirates and France. This research was based on the comparative descriptive approach between UAE legislation and French comparative legislation in the field of prohibiting public servants from engaging in business activities. The research concluded with a variety of findings, the most notable of which is the fact that the UAE legislature was flexible in dealing with this issue, making it simpler for employees to conduct businesses by reducing the load of life troubles on public employees. The study recommended the Establishing procedures, systems and rules for reporting to the competent authorities by public employees about acts of practicing commercial activities, when these acts come to their knowledge during the performance of their duties.

**Keywords:** public employee; law legislation; commercial activities; United Arab Emirates; France

## 1. Introduction

In carrying out its activities, the Government and public institutions have different and multiple means of fulfilling their mandated tasks and responsibilities, most notably the human component. As a legal person, a state can exercise its role in the administrative organ only through a natural person, the public official. The individual acquires this status through work in one of the State's fields of employment, and the employee must not engage in commercial activities in the public interest.

Over the past decade, the United Arab Emirates and France have witnessed a growing phenomenon of employees' participation in business activities, (Al-Hosani, 1998, p. 19) hampering the course of business interests. Employees' engagement in commercial activities is an economic, social and political phenomenon that exists in all countries of the world, although its seriousness varies from State to State (Al Hosani et al., 2023, pp. 532–549). This phenomenon is one of the main issues affecting public employment and the functioning of work in all countries of the world, the possibility of contravening ethical standards of employment and employment on the one hand, and the risks they pose to the economy and society.

Public official” shall mean: any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; any other person defined as a “public Council of Europe, European Treaty Series, No. 173. 5Ibid., No. 174. General Assembly resolution 55/25, annex I. 7 official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party.

The public service is defined as “the set of legal and technical conditions and controls for public officials, both those relating to their future career and their relationship with management, and those relating to their polite and effective performance of public administration functions”. Public functions are also defined as “those tasks entrusted to persons under the Constitution and laws, which they must perform in accordance with these laws in the public interest.”

From this advanced definition of public office, it is clear to us that the success of an institution of whatever nature or type depends primarily on the efficiency of the human element it manages, as it exercises State authority through its decisions. in the scope specified by law.

Definitions of a public official have varied, and since administrative law is of modern origin and has a judicial origin arising from judicial rulings, a flexible law that is constantly evolving, it is difficult to establish a specific and comprehensive definition of a public official public servant.

It highlights the importance of research as the most recent comparative study between the United Arab Emirates and France on the prohibition of public officials from engaging in commercial activities, since the success of an enterprise of whatever nature or type depends primarily on the competence of the human element it manages, exercising State authority through decisions it takes within the scope defined by law.

This research aims to highlight the concept of public servants and commercial activities as a theoretical framework and to identify the legislation of the United Arab Emirates and France in combating the phenomenon of public servants exercising business activities.

The research presents valuable research with great added value due to several factors available in this research. First: The French Republic is considered an example and a basic reference for legal legislation, including public law and private law, as legal legislation appeared more extensively in France, as the French legislator covered all areas of life, including human resources laws, anti-corruption laws, and laws prohibiting the practice of commercial activities by public employees. This is the main reason for choosing it in order to compare it with the laws of the United Arab Emirates, as the United Arab Emirates was chosen as a successful and pioneering example for the Gulf and Middle Eastern countries, as it has made great strides in the field of enacting laws and legislation related to public and private law.

## **2. Methods**

This research was based on the comparative descriptive approach between UAE legislation and French comparative legislation in the field of prohibiting public servants from engaging in business activities. The State of France was selected to compare its legislation in this area with that of the United Arab Emirates. French laws and legislation are considered to be the reference in the legislation.

## **3. Theoretical framework**

### **3.1. United nations convention against corruption of 2003**

The United Nations Convention against Corruption of 2003 is an international agreement and an effective tool to combat crime and illegal activities, including preventing commercial activities carried out by public sector employees. This agreement came after many international negotiations and was joined by the French Republic and the United Arab Emirates, thus taking a firm step to combat this phenomenon.

The importance of this agreement comes from the Johannesburg Declaration on Sustainable Development adopted by the World Summit on Sustainable Development held in Johannesburg, South Africa, from 26 August to 4 September 2002,<sup>2</sup> especially paragraph 19 thereof, which declared that corruption constitutes a threat to the sustainable development of people,

Concerned about the seriousness of the problems and threats posed by corruption to the stability and security of societies, and the undermining and endangering of the institutions and values of democracy, moral values and justice.

Preventing the practice of commercial activities by civil servants in the public sector is an important part of the international anti-corruption policy, as this agreement provides an effective and strong framework and opens up prospects for international cooperation. The agreement provides a comprehensive set of standards and procedures that all countries can apply in order to strengthen their legal and regulatory systems to combat corruption. It calls for taking preventive measures and criminalizing the most widespread forms of corruption in the public and private sectors. It also makes significant progress by obliging member states to return assets obtained through corruption to the country from which they were stolen. The agreement included several important recommendations, which are:

- 1) Take note of the report of the Ad Hoc Committee for the Negotiation of a Convention against Corruption, in which the Ad Hoc Committee presented the final text of the draft United Nations Convention against Corruption.
- 2) Formally adopted and signed on 9 to 11 December 2003, in accordance with resolution 57/169;
- 3) Urges all States and relevant regional organizations to sign and ratify the United Nations Convention against Corruption as soon as possible with a view to its rapid entry into force.
- 4) Requests the Conference of the States Parties to the Convention to address the criminalization of bribery of officials of public international organizations, including the United Nations, and related issues, taking into account the issues of

- privileges and immunities, as well as jurisdiction and the role of international organizations, by making recommendations on appropriate action in this regard.
- 5) Decides that, in order to raise awareness of corruption and the role of the Convention in combating and preventing it.
  - 6) Promote effectively the rapid entry into force of the United Nations Convention against Corruption, serve as the secretariat of the Conference of the States Parties to the Convention, and support the Ad Hoc Committee in its work.

**The objectives of this Convention are:**

- 1) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, including the prevention of commercial activities by civil servants;
- 2) to promote and support international cooperation and technical assistance in preventing and combating corruption, including asset recovery;
- 3) to promote integrity, accountability and proper management of public affairs and public property

### **3.2. Public servant's legislative concept**

a. UAE legislation:

The UAE legislator provided a detailed definition of a public official in the Human Resources Act as “a person holding a position in the federal authority in accordance with the human resources mechanisms and procedures approved by the federal government.” In line with the Executive Regulation of Human Resources Law of the Federal Government of the United Arab Emirates. (Al-Tawil, 2024). This definition applies to employees who receive salaries and entitlements from the Government's general budget, and may extend to non-staff such as federal and military police officers.

According to the Federal Supreme Court of the United Arab Emirates, “a public official is defined as any person who has held his position in accordance with due process of law. The position held by him must be the subordinate of a directly administered public utility.

The Public Servant of the Human Resources Act of the Federal Government defines “those who are paid from the budget, as well as civil servants working in the public sector. The conditions for acquiring the status of public servant are two conditions:

A person's citizenship is not a requirement, as a decree of the Human Resources Act allows for the appointment of non-citizens in the absence of nationals subject to the conditions and requirements of vacancy.

A person's salary must be paid from the general budget of the Federation, whether he or she works in the various branches of the State or in public institutions and bodies.

The Public Servant of the Federal Penal Code of the United Arab Emirates includes all the following:

- 1) who carry out the burden of public authority and staff in ministries and government departments.
- 2) members of the armed forces.

- 3) Chairpersons and members of legislative and advisory boards.
- 4) Any person authorized by a public authority to perform a particular act, within the limits of the authorized act.
- 5) Chairpersons, members, directors and other members of public bodies and institutions.
- 6) Chairpersons of governing bodies, their members and other employees of associations and institutions of public interest.
- 7) Any person who is not included in the categories mentioned in the preceding clauses and who carries out work relating to the public service on the basis of a task entrusted to him by a public official shall have such authority under the laws or regulations in force for the work in which he is assigned. (Al Hosani et al., 2023)

#### **b. French legislation**

French legislation did not give a clear or specific definition of a public official, but merely defined a public official on the basis of the scope of application, as opposed to UAE legislation, which gave clear and specific definitions to a public official so that it defined the conditions of the public official's qualifications. French labor law defined the concept of a public official as: "A public official is any person who works in State departments, territories, interests, municipalities and their public institutions.

The French Conseil d'Etat (Conseil d'Etat) defined a public official as a person employed in a permanent position belonging to a cadre of a public utility. According to another decision (a person entrusted with a permanent position within the staff of a public utility), French law stipulates that the general facility shall be administrative, so that its employees may be considered public employees (Camilli and Gomes, 2023).

Industrial and commercial public utilities differentiated between their employees and were given the status of public servant for supervisory, leadership and accounting functions. The rest of the workers were considered to be employees subject to private law and their disputes were subject to civil courts.

As for the attitude of French jurisprudence towards its definition of a public official, it is divided into two directions, old and modern. (Waxin et al., 2023).

The first sought to determine the meaning of the public servant influenced by the legislative texts that expanded the mention of categories or persons subject to the law. In the opinion of the public servant, the employee is a person who works in a permanent position in an administrative cadre in a public facility. He was a proponent of this jurisprudence (Horio) and (Roland) who defined the staff member as: (person holding a position in the establishment's permanent departments to ensure the regular functioning of public utilities) (Rose. 1985).

While there has been a recent tendency to narrow their definition of a public servant from that of a researcher (De Lobadier) and a Fallin, this trend has been defined as: (whoever contributes to the management of a public facility administered directly and occupies a permanent position within a cadre of public administration). The administrative judiciary also played a role in attempting to establish a comprehensive definition of a public official. (Waxin et al., 2023).

The French Conseil d'Etat ("person entrusted with a permanent position within the staff of a public service)

The French Conseil d'Etat defined a public official as a person employed in a

permanent position of a cadre of a public utility. Another decision stated that he was a person entrusted with a permanent position within the staff of a public utility (Camilli and Gomes, 2023). French law provided that the general facility should be administrative, so that its employees could be considered public servants. Industrial and commercial public utilities differentiated between their employees and were given the status of public servant for supervisory, leadership and accounting functions. The rest of the workers were considered to be employees subject to private law and their disputes were subject to civil courts.

As for the French legislature, the Public Employment Act No. 16 of 1984 identifies persons subject to the provisions of the Act, without specifying a specific and comprehensive definition of a public official, when article 2 stipulates that: (The provisions of this section shall apply to persons appointed at full time to a permanent position and affirmed at a level included in the functional hierarchy of central State services and their offshore facilities or in public State institutions) (Philip, 2023).

### **3.3. Business activities concept**

The UAE legislator defines doing business as being considered commercial if issued by a dealer for business affairs. This legislator has established a presumption that the business is related to his business until proven otherwise. It appears, however, that this criterion has been adopted by this legislator as one of the criteria that distinguish civil work from commercial work rather than the only criterion, as well as the speculative criterion as well as those provided for by law. business, or business that facilitates or is associated with business, where the establishment of negotiable instruments and all the processes on which they are based are considered to constitute business, regardless of the person's character or intent.

This criterion stems from the fact that work is not considered commercial unless it is in the form of a project , which necessarily requires a repetition of work in a professional manner based on a previous organization, and the idea of professionalism characterized by the need for external facts and manifestations indicates that a person is doing business professionally rather than coincidentally , these manifestations may focus on different areas such as production, distribution and trade processes related to goods and services (Jreisat, 2017).

In turn, we note here that this criterion is not sufficient to accommodate certain businesses, which may be partly correct in the definition of some of them, but that it does not consider certain businesses to be individually engaged in business, especially since the legislation in question considers them as such, such as the purchase of movables for sale for profit., it should be noted here that the legislation in question, especially the UAE legislator, has taken this criterion into account with regard to road transport operations, tourism and travel businesses, commercial agencies and others ( Georges and Pierre, 2001).

This criterion also confuses the economic and legal concept of a project, where economic activities are considered business if they take the form of a project, which we say is far from the truth, since certain activities may fall within the framework of business, such as self-employed persons' work; As doctors, lawyers and others, while they are not considered to be, here we can say that these standards alone are unable to

determine the scope of the business and here it is necessary to revert to the legislative text that defines business based on one, some or all of these criteria, If it does not contain evidence that a person's work is commercial, all the above criteria can be applied individually or collectively.

### **3.4. Application of the norms of legislation**

In UAE:

Article 2—Objectives of the Decree-Law The present Decree-Law aims to contribute to the development of the working environment and the State's capabilities and economic position in accordance with global changes as to regulating companies, and Preventing civilian employees from practicing commercial activities those related to regulating Governance rules, protecting the rights of shareholders and partners, supporting the flow of foreign investment, and enhancing the social responsibility of companies.

Article 4—Companies exempt from the provisions of this Decree-Law The provisions of this Decree-Law, as well as the regulations and decisions issued in implementation thereof, shall apply to commercial companies established in the State; also, the provisions relating to foreign companies set forth in this Decree-Law, as well as the decisions and regulations issued in implementation thereof, shall apply to foreign companies that establish their head office in the State for the practice of any activity therein or establish a branch or representative office thereof in the State.

- 1) Save for the registration and renewal of registration in the exempt companies register at the Ministry, the Authority, and the Competent Authority, each within its own competencies, the provisions of this Decree-Law shall not apply to:
  - a) Companies exempt under a Cabinet decision, where a special provision is stipulated to this effect in the Memorandum of Association or Statute thereof in accordance with the controls issued by the Council of Ministers.
  - b) Companies wholly owned by the Federal or Local Government, or any of the institutions, bodies, agencies, or subsidiaries thereof, and any other companies wholly owned by those entities or their subsidiaries, where a special provision is stipulated to this effect in the Memorandum of Association or Statute.
  - c) Companies in which the Federal or Local Government, or one of the institutions, bodies, agencies, subsidiaries thereof or any companies in which any of them owns, directly or indirectly, at least (25%) of their capital and operating in the field of oil exploration, extraction, refining, manufacturing, marketing, and transportation, or operating in the energy sector of all kinds, or in the electricity and gas production or water desalination, transmission, and distribution, where a special provision to this effect is stipulated in the Memorandum of Association or Statute thereof.
  - d) Companies exempt from the provisions of Federal Law no. (2) of 2015 on Commercial Companies, and its amendments, prior to the date of entry into force of the provisions of this Decree-Law, where a special provision is stipulated to this effect in the Memorandum of Association or Statute thereof.

- e) Companies exempt from the provisions of this Decree-Law by virtue of special federal laws.
- f) Special Purpose Acquisition Company (SPAC) without any other purpose, where a special provision is stipulated to this effect in the decision issued by the Authority regarding these companies. [www.lexismiddleeast.com](http://www.lexismiddleeast.com).
- g) Special Purpose Vehicles (SPV), where a special provision is stipulated to this effect in the decision issued by the Authority to regulate this activity.

The companies stated in clause (1/b, c, d) of this article shall adjust their situation in accordance with the provisions of this Decree-Law if they sell or offer for Public Subscription any percentage of their share capital or list their shares in one of the financial Markets in the State.

The companies stated in clauses (1/f) and (1/g) of this article shall adjust their situation in accordance with the provisions of this Decree-Law and pursuant to the regulations or decisions issued by the Authority regarding such companies.

In France:

- 1) French Commercial Code (Code de commerce): The Commercial Code includes provisions related to accounting transparency and the requirement for companies to maintain accurate and transparent financial records. These provisions are essential in preventing fraudulent accounting practices.
- 2) French Labor Code (Code du travail): The Labor Code contains provisions related to labor-related corruption, such as bribery in the workplace. It also addresses issues like gifts and favors to employees.
- 3) Public Procurement Laws: France has specific regulations governing public procurement, which are aimed at ensuring transparency, competition, and integrity in government contracting. Bribery and corruption in public procurement are subject to stringent penalties.
- 4) International Agreements: France is a signatory to various international anti-corruption conventions, including the United Nations Convention against Corruption (UNCAC) and the OECD Anti-Bribery Convention. These agreements influence and guide the country's anti-corruption efforts.
- 5) Whistleblower Protection: France has enacted legislation to protect whistleblowers who report corruption and other misconduct. The Sapin II Law strengthened these protections and established mechanisms for reporting corruption anonymously.
- 6) Corporate Liability: France recognizes the criminal liability of legal entities, including companies, for corruption offenses committed on their behalf. Companies can be subject to fines and other penalties for corrupt practices.
- 7) French Anti-Corruption Agency (AFA): The AFA is a key institution responsible for overseeing and enforcing anti-corruption measures in France. It provides guidance to companies on implementing compliance programs, conducts audits, and monitors adherence to anti-corruption regulations.

### **3.5. Companies operating in free zones**

- 1) The provisions of this Decree-Law shall not apply to companies incorporated in the free zones of the State where a special provision to this effect is stipulated in



the laws or regulations of the relevant free zone. Notwithstanding the foregoing, these companies shall be governed by the provisions of this Decree-Law if such laws or regulations permit them to conduct their activities outside the free zone in the State.

- 2) Subject to the provisions of clause (1) of this article, the Council of Ministers shall issue a decision specifying the conditions to be observed for the entry and registration of companies operating in the free zones of the State and wishing to conduct their activities inside the State and outside the free zones. Article.

### **3.6. Corporate governance**

- 1) Notwithstanding the requirements of the Central Bank with regard to the financial institutions subject to its control and supervision, the Minister shall issue the decision regulating Governance for companies with the exception of Public Joint Stock Companies, in respect of which the Board of Directors of the Authority shall issue such decision. The Governance decision shall include the rules, controls, and provisions that the companies shall comply with.
- 2) The Company's board of directors or managers, as the case may be, shall be responsible for implementing the Governance rules and standards. Article 7- Breach of Governance rules Article 8- Definition of a Company the Governance decisions provided for in clause (1) of Article (6) shall include the fines determined by the Ministry or the Authority, each within its own competencies, to be imposed on companies, their chairmen, Board Members, managers, and auditors in case of violating such decisions, provided that the amount of the fine does not exceed (10,000,000) ten million dirhams (LexisNexis, 2021)

### **3.7. The UAE accountability authority (UAEAA)**

The UAEAA exercises a significant role in preventing and fighting against - corruption in its capacity as the UAE Accountability Authority to detect fraud and financial corruption over the auditees' funds. It is also particularly assigned with verifying the integrity and legality of managing these funds. In addition to receiving corruption and financial irregularities reports and investigating it, and determining responsibility for them UAEAA is the central authority in the country on following up the implementation of the United Nation Convention against Corruption.

The UAE Accountability Authority (UAEAA) is the supreme institution for financial audit and accounting in the UAE, operating directly to the President of the UAE. Its primary objective is to foster integrity, transparency, and accountability within the United Arab Emirates. To this end, the UAEAA holds a critical role in safeguarding public funds by diligently monitoring the financial and operational activities of the federal entities across the UAE.

exercises its audit competencies in preventing and combating corruption stated in Article No. 2 in the Federal Law No. 8 of 2011 on the Restructure of supreme Audit Institution that UAEAA shall be responsible for detecting fraud and financial corruption in the auditees.

Reporting corruption and financial violations: UAEAA allows all individuals to report corruption and financial violations regardless of their characteristics or

categories, whether they are federal government employees or clients or suppliers of goods and services and other individuals

United nations convention against corruptions: The UAEAA is responsible for detecting fraud, financial corruption, auditing public funds and auditees' funds according to Article (2) of Federal Law No. (8) of 2011 on Restructure of SAI.

Protecting integrity & Anti-Corruption in GCC corruption is a multiform criminal phenomenon that adversely affects ethical values, politics and social and economic aspects, and according to its wish to invigorate efforts to combat and prevent corruption (UAEAA, 2023).

#### **4. Discussion and results**

The research describing the compared regulations:

Measures and mechanisms of the UAE legislator to combat the exercise of the employee's business activities:

Since 2010, the UAE Labour Law has allowed a worker to work as a second part-time job in another facility, in addition to his basic full-time job, provided he has a temporary part-time work permit, to work for another establishment. For residents of a guarantee established by law, UAE nationals residing in GCC countries can, Residents of the State under a work visa for other nationalities, working in a second job, after obtaining a part-time work permit from the Ministry of Human Resources and Resettlement Employment permit “, which is valid for one year and grants permission to the holder to work part-time for another establishment for less than eight hours per day, in addition to his work in the current establishment.

If the employee works in another establishment without obtaining a permit, the establishment will be subject to a fine of AED 50 thousand, as well as other penalties if the offense is repeated. Residents are guaranteed their relatives. Residents of the State on the sponsors of their relatives can obtain a second job under a part-time work permit, after obtaining a letter of no objection from the sponsor. This permit can be obtained for males and females between the ages of 18 and 65. Part-Time System: The Ministry of Human Resources and Emiratisation began in 2018 with the introduction of a new system that allows companies to recruit and employ workers from within or outside the country under a part-time contract. Part-time contracts are limited to posts or occupations in the first and second skill levels requiring scientific, technical and administrative skills and university qualification at a minimum, as well as professional professions requiring scientific, technical, practical and supervisory skills with an average institute qualification of two to three years after general secondary school. Under the partial employment contract, a worker, whether a citizen or a non-citizen, may work in more than one enterprise at the same time, without the need for the consent of the original employer, or any other employer who partially works for him. Time, but only required to obtain a temporary work permit from the Ministry (MoHRE).

Federal Decree-Law No. 33 of 2021 on the Regulation of Labour Relations, known as the “UAE Labour Law”, applies to all workers in the private sector in the country, whether they are citizens or residents, except for certain categories that are excluded from this Law and subject to different regulations and legislation. Learn

about the applicable laws and regulations in the private business sector.

The UAE legislator is flexible in allowing a public employee to do business. All business performed by a merchant until proven otherwise. Speculative work carried out by any person, whether merchant or other, is considered business if it is done with a view to achieving profit. The UAE legislator also considered the business to be commercial if the law stipulates that it is commercial, and the same provision applies to the business associated with it or those facilitating the business.

The UAE legislator has also taken some activities out of the business range, such as the farmer selling his agricultural crops even if they are converted, as well as activities related to agricultural tourism, and businesses where people depend on their livelihood. physical and physical needs. Mental efforts for profit, as well as the artist who creates works of art, prints the author's classification or sells it.

In the United Arab Emirates, Federal Decree-Law No. 49 of 2022 regulated public service and referred to the definition of an employee. In the first requirement of this section, we discussed it in the legislative definition of a public official. The Decree-Law clarifies the scope of application of this Act by stipulating: "1. The provisions of this Decree-Law apply to civil servants in federal bodies, including those whose creation law provides for the existence of independent human resources systems. The federal authorities and their personnel shall be exempt from the application of the provisions of this Decree-Law by decision of the Council of Ministers. (Mahdi, 1993). The exclusion decision shall specify the provisions and obligations of those bodies, with the following obligation: to provide real-time data to their working human resources, including wages, salaries and all human resources procedures, by linking with the regulations approved by the Authority. The Constitution of the United Arab Emirates regards public service as a national service performed by its organizers. In carrying out the duties of the public official's job, the public servant aims to achieve the public interest alone.

The Decree-Law did not explicitly prohibit or permit an employee to work in commercial activities, but some of the texts in the Decree-Law show that he stressed the need to respect the job, stating: "The employee shall perform his work in accordance with the standards of conduct adopted for public office, as defined in the Professional Conduct Document (Mazen, 2003).

Public office ethics shall be issued by the Council of Ministers at the suggestion of the Commission, in particular the obligation to:

- To respect the laws, rules and regulations relating to the performance of functional duties and responsibilities and to abide by the legislation in force in the State.
- It is stated elsewhere that "in the performance of the duties of his or her post, the staff member shall avoid any conflict of interest that may occur between his or her own activities and the interests and operations of the Government, and shall avoid any act in which any suspicion of conflict of interest may be raised, and in particular shall avoid:
- Participation in any official process or decision that directly or indirectly affects the success of the contractor or supplier who is close to the fourth degree, the kinship includes blood connection and melting.

- Participation in any decision that may result in the granting of any benefits to any of his relatives up to the fourth degree, including blood connection and melting.
- Participation in any official process or decision directly or indirectly affecting the success of the supplier, contractor or enterprise in which the employee is a partner in any way and resulting in the staff member's obtaining a direct or indirect ratio or a material share or benefit.
- exploit his position or leak any information obtained because of his work to achieve certain objectives or obtain special service or treatment from any entity.

The Executive Regulation of the Federal Government's Human Resources Act provides that "an employee shall be prohibited from working for others with or without pay except with the prior written consent of the federal authority in which he or she works. In any case, an employee's work with others will not negatively affect their duties and will not negatively affect federal authority.

The UAE legislator does not develop a road map for an employee who wishes to work in business by granting him one year's leave to work part-time, which the employee seeks to establish or manage his economic work. Project, in accordance with the conditions set out in Council of Ministers Decision No. 12 of 2023 on full-time leave for self-employment of federal government employees, which established a road map for self-employment. The decision defined an employee as "a citizen employee who occupies one of the positions included in the federal authority's budget, and does not include temporary contract and part-time employment. "Also defined as a citizen of the United Arab Emirates.

The decision of the Council of Ministers stipulated the conditions and regulations for granting the leave referred to in the decision to obtain the necessary licenses for the economic enterprise, that the employee had received a performance evaluation of at least 2 or its equivalent from the employer, that the employee's term of service was 5 years and that he had performed the national service. The decision of the Council of Ministers on granting the citizen's employee self-employment leave applies to all civil servants working in federal bodies, with the exception of employees of companies owned by the Federal Government, temporary contract employees and part-time employees. The employee receives 50% of the employee's total salary, excluding job allowances and allowances (Bashar, 1983).

Through a review of the legal texts concerning the employee and the practice of business, we find that the UAE legislator has been flexible in dealing with this issue and is easy for the employee to engage in self-employment, including business. This is in accordance with the decision of the Council of Ministers, and it is better organized than the rest of the States under consideration in a step to alleviate the burden of the staff member's life difficulties.

Measures and mechanisms of the French legislature to combat the exercise of the employee's business activities:

The Act prohibits an employee from engaging in a variety of activities due to conflicts of interest, namely:

- Establishment or seizure of a company registered in the commercial registry and companies or in the commercial directory or subsidiary of the system provided for in article L. 613-7 of the Social Security Act.
- Participation in the governing bodies of companies or for-profit associations.

- Consulting or conducting expert assessments or arguing before the Court in disputes involving any public person, where applicable, before a foreign or international judicial authority, unless such service is provided for a public person not falling within its jurisdiction. Competitive sector (Chatfield and Alhujran, 2009).
- Acquire or retain, directly or through intermediaries, in a company under the control of its own administration or in respect of the latter, interests that threaten its independence.
- Combine a full-time permanent post with one or more other permanent posts.

Article 25 of the Act, in the area of non-conflict of interest between the public interest and the private interest of the staff member, then states that “the staff member shall immediately undertake to put an end to or prevent any conflict between the public interest and the private interests of the staff member”. For the purposes of this Law, any conflict or overlap between public and private interests likely or appears to affect the independent, impartial and objective exercise of an individual’s functions constitutes a conflict of interest.

Under the Act, a French official performing economic work or performing economic functions prior to appointment is required, within two months of appointment, to make all necessary arrangements for the management of his or her finances, so as to be immune from inspection and accountability. The Chairman of the High Transparency Commission will be informed within two months of his appointment of the accurate disclosure of his economic status to the Chairman of the Transparency and Integrity Commission, in which he will disclose his financial assets. When the employee fails to comply with article 25 ter, paragraphs 1, 4.1, 25 ter, paragraph 1, and 25 ter, paragraph 1.3, he has not sent the statement of financial indemnity provided for in article 25 ter, and article 25 ter, paragraphs 1 and 3, are punishable by one year’s imprisonment, a fine of Euro 45,000 and deprivation of civil rights.

Nor has the French legislature relaxed the prohibition on a public official in article 25 (3) of employment outside the post by allowing the employee, at his request, to obtain a license from his higher authority to practice the profession. Part-time work to establish or engage in a business, where the permit is granted, the employee is entitled to work part-time for a period of 3 years, renewable for one year from the date of his employment. In article 25 (4), a civil servant may obtain authorization from his or her higher authority to engage in additional activity, whether commercial or non-commercial, whether he or she has a person or a public or private enterprise, as long as such activity is compatible with his or her position.

The Public Servant (25/5) may also, with respect to the production of intellectual property items within the meaning of articles L.112-1, L.112-2 and L.112-3 of the Intellectual Property Act, freely exercise them, taking into account the copyright provisions of public officials and taking into account articles L.121-6 and L.121-7 of this Act. Teaching staff, technical and scientific staff of educational institutions and persons engaged in activities of a technical nature are also allowed to exercise the free professions that arise from the nature of their functions (Mazen, 2003).

The French legislator also authorized a public official who has won a competition or who is on loan as a contractor to continue his/her private activity as a director of a

for-profit company or association for a period of one year, renewable once from the date of appointment, to carry out legal sanctions against a public official who engages in business in French legislation.

By reviewing the legislation promulgated by the French legislature, we note that criminal penalties have not been imposed on a public official engaged in business, but only on disciplinary penalties contained in the Law on Discipline of Public Officials and the Public Sector No. 14 of 1991, as amended, which prohibits a public official from doing business, establishing companies and membership of their boards of directors.

## **5. Conclusion**

In conclusion, we have tried - through this research - to study the legislation prohibiting the conduct of business activities by the public official between the United Arab Emirates and France—a comparative study. Therefore, the most important conclusion that:

The laws and regulations collectively form the legal framework for combating bribery and corruption in France. The country has made significant efforts to enhance its anti-corruption regime, aligning its practices with international standards and best practices. Companies operating in France are expected to comply with these laws and implement anti-corruption measures to prevent corrupt practices within their organizations.

Main findings:

- A public official in UAE and French legislation is any person who is assigned to a permanent position in a public establishment, appointed in accordance with due process.
- The laws on the conduct of employees' business activities should be adapted to the nature of the work and the State and its economic, social, political and legal trends.
- The legislation of the United Arab Emirates differs from that of France in allowing an employee to work in business activities in order to preserve the dignity of the job and prevent conflicts of interest.
- The French legislature reserves some kind of permission for an employee to engage in commercial activities.
- We found that the UAE legislator was the most flexible and lenient in allowing a public employee, whether a citizen or resident, to work outside his job because of his desire to lift the job burden on this category of society in the face of difficult circumstances. The Emirati legislation even allowed the employee to work in two installations at the same time provided that he did not conflict with the substance of his work and, with the exception, the staff member was authorized to do so after obtaining written consent in accordance with the limitations set by the legislator, including a performance rating of at least 2 and to have 5 years' service in federal or local work, and to have performed a scientific service.
- For the French legislator, the public official is authorized to work at his request, subject to the authorization of the administrative authority to engage in part-time work for a period of three years, which may be extended for one year.

- The French legislature prescribed a specific penalty, namely, the recovery of funds derived from the performance of an employee's employment outside his or her post in contravention of the law. Disciplinary sanctions made it liable to the filing of disciplinary proceedings.
- The French legislature prescribed a specific penalty, namely, the recovery of funds derived from the performance of an employee's employment outside his or her post in contravention of the law. Disciplinary sanctions made it liable to the filing of disciplinary proceedings.
- The need to commit the General Officer to full-time employment to increase performance efficiency and prevent business activities that may require additional efforts.
- Both United Arab Emirates and French legislation should restrict the relevant legislation on commercial activities that a public official is prohibited from engaging in, since some business activities, even if performed by a professional person, do not lead to the acquisition of merchant status, including the establishment of negotiable instruments and all related operations such as acceptance and safeguarding them in reserve.
- The Emirati and French legislators that the penalty for a public official engaging in a business is contrary to the law to recover the sums derived from such work by deducting it from the salary and urgently imposing other disciplinary penalties on the filing of a disciplinary action by the administration, as did the French legislature.
- Both the French Republic and the United Arab Emirates seek to combat and prevent the phenomenon of public employees practicing commercial activities by joining the International Convention against Corruption in accordance with the objectives of this convention, and by enacting many laws in accordance with its basic principles and legal system.

The practical applicability of the results:

Each State Party shall take appropriate measures, within its means and in accordance with the fundamental principles of its domestic law:

- The necessity of establishing specific procedures and conditions for employing and training individuals to prevent them from practicing commercial activities.
- Raising and enhancing adequate wages for public employees in line with the economic level of countries.
- Establishing procedures, systems and rules for reporting to the competent authorities by public employees about acts of practicing commercial activities, when these acts come to their knowledge during the performance of their duties.
- The necessity of obligating public employees to make statements to the competent authorities regarding their work or practicing commercial activities or their investments, assets, gifts or important benefits that may result in a conflict of interest in their work institutions.
- The necessity of taking disciplinary measures and imposing fines against all public employees who practice commercial activities.
- Developing the appropriate legislative, legal, institutional and administrative system to prevent the practice of commercial activities by employees in accordance with the objectives of the international agreement and in accordance

with the basic principles of the internal laws of the United Arab Emirates and the French Republic.

- Training and educating public employees on the prevention of the practice of commercial activities and training them on the risks of corruption.
- Establishing measures and systems to facilitate the reporting of acts of corruption by public employees, especially the practice of commercial activities, to the competent authorities, when these acts come to their knowledge during the performance of their duties.

Each State Party shall take appropriate measures, within its means and in accordance with the fundamental principles of its domestic law, to promote the effective participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in preventing and combating the commercial activities of public officials, and to increase public awareness of the existence, causes and seriousness of corruption and the threat it poses.

Public information activities that contribute to intolerance of civil servants engaged in commercial activities, as well as public education programmes, including school and university curricula.

Each State Party shall take appropriate measures to report, including anonymously, any incidents that may be considered to encourage the commercial activities of public officials.

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