THE IMPLICATIONS OF CONVERSION FOR THE CONVERTED PUBLIC JOINT STOCK COMPANIES

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Abstract

The phenomenon of company conversion is on the rise, both in the United Arab Emirates (UAE) and Jordan. This study aims to investigate the concept of conversion and examine the implications it has on the converted company. We explore the continuity of the converted company's legal personality and discuss its significant outcomes, whether affecting the converted company itself or others involved. Specifically, we analyze the impact of the conversion on the company's pre-conversion obligations, liabilities, and contracts. Furthermore, we examine the regulations governing the new form adopted by the converted company, both in its internal operations and relationships with partners, as well as its external interactions with others. Additionally, we provide an explanation for the capital increase when a company converts into a public joint stock company. The problem addressed in this paper is to determine the consequences of conversion for the converted company. To investigate this topic, we employ analytical and comparative methodologies. We conclude that the conversion of a company does not lead to the termination of the transferred company's legal personality and the creation of a new legal entity.

Keywords: Conversion, Public Joint Stock Company, UAE, Jordan

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1. INTRODUCTION

According to legal jurisprudence, it has been generally accepted that the conversion of companies is defined as the change in the company's legal form. It is the process under which the company's former legal form is changed into another form of a commercial company. In other words, the company abandons its old legal form and adopts a new one (Younes, 1986; Al Qalyobi, 1988; Al Sharkawy, 1986; Ahmad, 1993, 1999; Al Araini, 2002; Taha, 2000).

A trend in legal jurisprudence criticizes this traditional definition of conversion because some conversion processes are done without changing the company's legal form. This means that the definition describing the conversion as a change in the company's legal form is imperfect since it does not include some of the special forms accommodated by the current legal scope of that notion (Gowayhan, 2008).

This means that the definition of conversion as a change in the legal form is incomplete, as it does not include some of the special forms of conversion contained within the legal scope of that notion, in which conversion is undertaken without changing the legal form. Hence, it can be said that this definition lacks specificity, where it does not reveal the fact of the change resulting from the company's conversion. This includes the conversion from a public sector company into a private joint stock company, where conversion is done through changing the legal nature of the company, not the form, because the public sector company, which originally has the joint stock company form, retains

this form after the conversion. Therefore, this is a change in the legal order of the company (Al Sobek, 2012).

Another trend in legal jurisprudence considers that although the form is one of the matters determined by the action under which the company has been established the company, it is not a constituent element of the company. But it shows the legal order the company is subject to during its lifecycle as a legal person. Therefore, it is better to define the conversion of or change in the company's form as a change in its legal order (Saudi, 1988).

For our part, we are supportive of this opinion due to the several advantages provided by this definition, namely revealing the fact of the change made as a result of the conversion of the company and interpreting some of its special implications concerning partners and third parties, which distinguish it from the other processes undergone by the company, as well as accommodating the other forms of conversion authorized by the law that can be contained within the scope of the notion under this concept, considering that it does not entail the expiry of the company's legal personality and establishing a new legal personality, and this is the purpose of conversion.

It is worth noting that conversion of the company generally leads to a set of implications and results of high significance, whether regarding the converted company, the partners, the shareholders, or the creditors (Chandratre, 2023). This is because the structure of the company will be profoundly changed, where the company will appear in its new form without entailing the expiry of its legal personality and changing the personality of the form from which it is converted, but the company retains its existing and continued legal personality under the new form (Al Sobek, 2012).

Although conversion has an adverse impact concerning the company's legal personality, which is the retaining of the existing legal personality by the company and enabling it to take another more suitable form without expiring, this conversion has a positive impact also that is the change of the set of rules that were ruling that form into the other rules governing the new form into which the company was converted (Fahim, 1986).

It is noted that the phenomenon of companies' conversion is increasing, whether in the UAE or Jordan. Most recently Taaleem a UAE private joint stock company was converted to a public joint stock company and its shares were listed on Dubai financial market on November 29, 2022. Moreover, the Egyptian Arab Land Bank is considering converting its branches abroad in Jordan and Palestine into a public joint stock company. This paper aims to investigate the concept of conversion and will only clarify and address the implications of conversion for the converted company without discussing the implications of conversion for the partners and the company's creditors.

Each of the commercial companies has a legal personality. Hence, a question has arisen about the destiny of the company if converted, in other words, case changing its legal form into another form, such as when a public joint stock company is converted into a private joint stock company or vice versa, or a partnership is converted into a limited partnership or a limited liability company (LLC) is converted into a public joint stock company. Therefore, shall this conversion entail the expiry of the company's legal personality and the emergence of the new company with a new legal personality?

The Emirati legislator answered this question in Article 275 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies providing for the following: "Any company may be converted from one form into another, while keeping its legal personality……". By virtue of this text, the company shall not lose its legal personality (Hattab & Farah, 2016; de Luca, 2021).

If it is converted according to the rules and procedures prescribed in this regard, where the company will not expire but will remain under another but more suitable form. On the other hand, the legally unauthorized or non-agreed conversion will lead to the expiration of the company's legal personality and the emergence of a new company with a new legal personality.

Moreover, the conversion has other implications, which are the change of the set of rules that were governing the former form of the company into the ones governing the new form into which the company was converted, as well as the obligation of the company, which desires to convert into a public joint stock company, to increase its capital through selling its shares or offering new shares for public subscription.

The rest of this paper is structured as follows. Section 2 reviews the relevant literature. Section 3 analyses the methodology that has been used in this paper. Section 4 relates to the results obtained from the research. Section 5 discusses the implications of conversion for the converted public joint stock companies. Section 6 concludes the paper.

2. LITERATURE REVIEW

There is a limited number of studies that address the conversion of companies under Emirati and Jordanian law. We will present some of the previous studies in order to benefit from them.

Al Qeni (2021) focused on the transfer of legal status for public joint stock companies. The research highlighted a significant problem faced by companies undergoing this transformation, which was the lack of specific legal texts supporting or guaranteeing the conversion process. Many companies had to rely on general principles for their transfer. The study found that Palestinian and Algerian legislators explicitly and clearly addressed the issue of transferring the legal status of public joint stock companies.

Additionally, Al Qeni (2021) discovered that the ease or difficulty of the conversion process depended on the powers granted to the board of directors by the general assembly. The author's recommendation was to explicitly specify the percentage of transfer fees. This study shares similarities with the current research as both address the conversion of companies in general. However, the current study differs in its jurisdiction, focusing on the conversion of public joint stock companies under UAE law compared to Jordanian law. In contrast, the previous study examined legislative provisions for the conversion of public joint stock companies under Jordanian, Egyptian, Palestinian, Syrian, and Algerian laws.

Al Shuraiqi (2020) extensively examined the transformation of companies and emphasized the importance of proper regulation to achieve partners' goals. It is noteworthy that the majority of countries have implemented laws to regulate company transformations, although the specific regulations adopted by each jurisdiction vary.

Al Shuraiqi's research revealed that certain laws differentiate between conversions or transformations from a person's company to a financial company and vice versa. Additionally, some laws prohibit the conversion of certain types of companies into other forms. Regardless of the transformation procedures employed, Al Shuraiqi (2020) emphasized the significant effects that transformations can have on companies, partners, and creditors. The transformation process can potentially impact these stakeholders, necessitating legal safeguards and guarantees to protect them from potential damages resulting from the transformation. Al Shuraiqi (2020) aims to shed light on the transformation of commercial companies under the Royal Decree 18/2019 Promulgating the Commercial Companies Law, in comparison to a selection of Arab legislations. The present study shares similarities with the previous study as it explores company conversion. However, it distinguishes itself from Al Shuraiqi (2020) by focusing on the implications of conversion specifically for Emirati law as applied to public joint stock companies, in contrast to Jordanian law. Additionally, Al Shuraiqi (2020) examined various types of company conversions and compared Omani law with both Jordanian and Qatari laws.

Alqayid (2013) addressed in his study the legal system for company conversion in UAE law compared to Egyptian and French laws. Alqayid (2013) studied the subject of company conversion in general and aimed through his study to identify what is meant by company conversion and distinguish it from other similar legal issues, such as mergers. Alqayid (2013) also aimed to identify the different forms and types of changes in a company's form, in addition to outlining the conditions and procedures that must be followed to transform companies from companies of persons (partnerships) and capital companies (corporations) and vice versa.

The study also aimed to determine the legal nature of company conversion and the legal opinions that were put forth in determining this nature. Finally, the study aimed to determine the legal effects resulting from company conversion, both on the converted company itself, its shareholders or partners, and its creditors. This study is similar to the current study in its examination of company conversion in UAE law.

However, the current study differs from Alqayid's (2013) study in that it will deal with the implications of conversion for the converted public joint stock companies under Emirati law compared to Jordanian law.

3. RESEARCH METHODOLOGY

The authors relied on two methodologies. Firstly, the analytical approach is used by analyzing legal texts related to the converted public joint stock companies in the Emirati and Jordanian laws, as well as analyzing juristic opinions on the topic of company conversion and the issues that arise from it. Secondly, we used the comparative methodology by comparing the position of the Emirati and Jordanian legislators regarding the converted public joint stock companies in order to identify commonalities, differences, and gaps in both laws regarding the implications of conversion for the converted public joint stock companies.

Apart from the two methodologies employed in this article, there are alternative methods that could be suitable for conducting the research. One such method could involve conducting interviews or surveys with legal experts, scholars, or practitioners who specialize in company law and have knowledge of the implications of conversion for public joint stock companies under both jurisdictions. These interviews or surveys could provide valuable insights into practical experiences, perspectives, and potential challenges faced by converted companies.

Another alternative method could involve analyzing case studies of previously converted public joint stock companies in both jurisdictions. By examining specific instances of company conversion, researchers can gain a deeper understanding of the practical implications, legal issues, and outcomes associated with such conversions in Emirati and Jordanian contexts.

4. RESULTS

After completing the study and analysis of the topic, the following outcomes have occurred. Conversion of a company does not result in the expiration of its legal personality. The conversion does not affect the financial liability of the transferred company, and it continues to have the same liabilities and obligations. The company is not obligated to re-register in the commercial registry but must declare the conversion and can use its old books. Lawsuits filed by or against the company are not affected by the conversion. The company cannot dissociate itself from contracts concluded before the transfer. The name of the transferred company must be replaced with the name of the transferee company as one of the parties to the contracts.

5. DISCUSSION

5.1. Continuity of the legal personality of the converted company

Considering the purpose of the conversions process, it is found that this process aims to keep the company existing and avoid its expiry. Hence, it can be said conversion is supposed, according to its purpose, to maintain and retain the company's legal personality after conversion without giving rise to a new legal person. Therefore, retaining the company's legal personality after conversion is the primary principle governing that process. This is what has been prescribed by Article 283(2) of the UAE Federal Decree-Law no. 32 of 2021 on Commercial Companies, as well as the Jordanian legislator in Article 221 of the Companies Law no. 22 of 1997 and its amendements (Al Qeni, 2021; Al Shuraiqi, 2020; Al Ajmi, 2019).

The principle of continuity of the company's legal personality in case of conversion can be

justified because of the company's interest at the time of conversion to cope with the expansion of the company's business or to avoid its expiration. This principle can also be justified, in practical terms, due to the third parties' interest in maintaining their rights towards the company, and this necessitates keeping the legal person existing (Al Sobek, 2012).

It is believed that the principle of continuity of the company's legal personality in case of conversion can be established and consolidated based on the fact that the legislator has authorized conversion under the provisions of the law. This means that the legislator intended that the company will continue to be existed in its new form without affecting the legal personality that shall remain as it is. The company in its new form shall be an extension of the original company, where the legal personality shall be deemed as existing since the incorporation of the company in its original (first) form before conversion.

Upon the foregoing, it can be said that such conversion has no impact on the legal personality of the converted company, which remains as it was before the conversion. Otherwise, the relevant text will be meaningless, whereas considering otherwise means that the text authorizing conversion is divested of all legal values.

Hence, the most prominent results of the continuity of the legal personality of the converted company will be addressed below:

5.1.1. Results of continuity of the legal personality for the converted company

As aforementioned, conversion shall not entail the expiration of the legal personality of the converted company and the establishment of a new legal personality, where the converted company will keep the same legal personality after the conversion. As a result, the company will remain as the owner of its assets and property, where the conversion shall not affect the financial position of the converted company, which will keep its assets and liabilities, and the positive aspect of its financial position will guarantee the negative one, which means that the positive aspect of the financial position of the converted company (the total of the company's financial rights) will continue to guarantee the fulfillment of its debts due to others (Al Sobek, 2012).

Moreover, the idea of continuity of the legal personality of the converted company will not give rise to any obligation on the converted company to re-register itself at the Commercial Registry. The only obligation it has is to declare the conversion only or record it in the commercial registration certificate. In addition, the converted company is not obligated to keep new books of accounts, but it may keep the same books that it was keeping before conversion, etc. (Fahim, 1986).

Regarding management and representation of the company, conversion may lead to an end of the authority of the company's representatives due to the change in its management after conversion. However, this change shall have no impact on the lawsuits filed by or against the company due to the continuity of its legal personality after conversion and it, therefore, keeps the same capacity in such lawsuits (Fahim, 1986).

Moreover, the idea of continuity of the legal personality of the converted company may not disrupt the litigation, even if the company's legal representative is changed, where it has been established that changing the company's representative during its lifecycle shall have no impact on the progress of the lawsuit (Al Aliky, 1995).

5.1.2. Results of continuity of the legal personality of the converted company for others

As aforesaid, the continuity of the legal personality of the converted company shall have no impact on the company's financial position, and the respective rights and liability shall, subsequently, remain the same. Therefore, the conversion of the company has no impact on the company's debts, in order not to prejudice the rights and securities due to the creditors of the company at the time of conversion (Al Shawarbi, 1991).

Moreover, the converted company shall not evade the obligations of the contracts it concluded before conversion, where such contracts shall remain valid and effective. In such cases, the only requirement shall be to replace the name of the converted company with its name after conversion as a party to such contracts. This means that the entire articles of such contracts shall remain unchanged, except for this formal procedure (Al Sobek, 2012).

Therefore, the impact of the conversion will be addressed as follows.

1) Impact of conversion on the company's obligations and liabilities before the conversion. As aforesaid, conversion shall have no impact on the financial position of the converted company, which shall keep its assets and liabilities, with the positive aspect guaranteeing the negative one. Therefore, conversion shall not impact the company's debts, where no change is made in the personality of the debtor. As a result, the debt maturities shall not be prejudiced due to this conversion, unless so is agreed (Nasif, 2011) in consideration of the principles of respecting the rights of others. So, the rights and guarantees in favour of the creditors of the company shall not be prejudiced at the time of conversion[1].

2) Impact of conversion on the contracts concluded by the company before the conversion. Conversion shall not lead to the expiration of the company or its legal personality, but the company will remain in the same financial position, including all positive and negative elements thereof. Therefore, the contracts concluded by the converted company before conversion shall remain valid and effective after the company is converted into another company form as if the company in its new form was the party that concluded such contracts from the very beginning (Al Sobek, 2012). In fact, the application of this rule varies from one contract to another according to the nature and characteristics of each contract. This article cannot address all types of contracts; hence, it will address the employment contract only due to its utmost practical importance.

[1] As prescribed by Article 283(2) of the Federal Decree-Law no. 32 of 2021 concerning Commercial Companies.

In employment contracts, the employment relationship remains continued with the company regardless of the change in the owners thereof. This is because the company's existing legal personality remains the same with a change in the legal form of the legal person. Therefore, there is no new legal person, but it is the same existing person. Hence, the relationship between that person and its employees shall continue. Therefore, even if it is assumed that the conversion led to a change in the personality of the employer for the workers of the converted company, this change shall have no impact on the existing employment contracts at the time of conversion, where these contracts shall remain valid and effective as long as the establishment still exists, this is because the project or the establishment is separate from the employer's personality (Al Sobek, 2012).

Thus, it is evident that the conversion process does not have any effect on the employment contracts that are concluded before conversion, rather these contracts shall remain in full force and effect after conversion due to the continuation of the legal personality of the company that shall remain after the conversion, after the change of its legal form.

It is noted that the survival of the employment contracts of fixed term by the converted company does not depend on the will of the worker or the will of the company; accordingly, neither the worker nor the converted company may terminate the employment contract unilaterally, but it may be terminated by the common will of its two parties, and on the contrary with regard to the employment contracts of unlimited term, whereas each of the two parties of the contract may terminate it unilaterally, but this right is not absolute; rather apply it, the party wishing to terminate the contract shall depend on a legitimate justification, i.e., there is a legitimate interest realized by the termination of the contract for the terminating party without causing serious damage to the other party in a way that is not commensurate with this interest. If the termination is not intended to achieve a legitimate interest, or if the interest achieved by the termination is not commensurate with the harm caused to the other party, then the termination will be abusive (Al Sobek, 2012).

It is stipulated that the continuation of the employment contracts that the company concluded in their old form until after the conversion may not result in prejudice against workers' rights or reduce the benefits they were enjoying. The continuation does not only apply to employment contracts. It includes, in addition to all that, the workers enjoy rights and benefits before conversion.

The company, after conversion, may not impose on its workers a new internal regulation other than the one that applied to them before conversion, if this new regulation may affect the rights they enjoyed in the company before its conversion. On the contrary, if the converted company imposed a new regulation that may add more benefits to its workers who are contracting with it in its new form, then this regulation shall apply to the company's old workers, as the old workers benefit from these better benefits the company decides for them, as long as the conditions apply to them. The circumstances are the same (Saudi, 1988) but in case new workers were appointed under different conditions and different circumstances, the company's workers in their old form shall not be entitled to demand equality with the newly appointed workers.

We consider that the survival of the employment contracts by the transferee company entails that there is a purpose similar to the purpose of a converted company or complementary there too so that the workers can continue to perform the works and tasks that do not differ from the works and tasks agreed upon under the employment contracts without changing the type of work. It should be noted that the UAE legislator stipulates cases under Article 45 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies regulating the work relationships in which it is permitted for the worker to leave work without serving notice, including the case in which the employer entrusts the worker to do work or task that is totally different from the work agreed upon under the employment contract without the worker's written consent to do so, except in the case of necessity stipulated by the legislator following Article (12) of the said decree (Labor Law no. 8 of 1996 and its amendments, Article 29(A)).

5.2. The subjugation of the company to the system of the new form

If the negative implication of the conversion process is the continuation of the legal personality of the converted company, this does not mean that the converted company will continue to be subject to its old system, but after conversion, it shall be subject to the system of the new form to which the company was converted, whether in its internal life and the relationship of partners or its external life and its relationship with others.

When the converted company is subjected to the system of the new form, this will result in a change in its system through changing the set of rules that governs this form into the rules that govern the new form to which the company was converted, and this may result in termination of the managers' authority, change the management structure or termination of the auditor's task in some occasions (Fahim, 1986).

To demonstrate the issue of the subjugation of the converted company to the system of the new form, we will discuss these matters as follows.

5.2.1. The effect of conversion on the managers' authority and management structure

Since the company cannot deal on its own, it must be represented by one of the natural persons who is specially appointed to conduct the business in its name and for its own account. In the companies of persons such as partnership and limited partnership companies, such person is represented by the manager. For money companies such as joint stock companies, several directors form the board of directors. The director or the board of directors shall express the company's will, as the management shall be only given to a natural person, yet it is assumed, metaphorically, that the company has

a well expressed by its manager or the board of directors (Fahim, 1986).

Concerning the relationship between the manager and the company, the Emirati legislator has considered the manager in the joint stock companies or limited liability companies as the authorized representative or agent on behalf of the partners in the internal links that exist between them (Abu Saada, 2017).

Therefore, he must carry out all the duties required by the nature of the agency, preserve the company's rights, exert the diligence of a careful person, and perform all acts in accordance with the company's purpose and the authorities entrusted with him (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 22).

The company is committed to any activity or behavior issued by the authority authorized to manage the company while practicing the management activities in the usual manner. It is also committed to any act carried out by one of its employees or agents, as long as he is entitled to act on its behalf and the third parties relied on that while dealing with the company.

As for the external links that are established between the company on the one hand and the third party, on the other hand, the provisions of authorization or agency are not sufficient for them, as the Emirati legislator considered the manager as a representative of the company to express its will so that the chairman of the board of directors shall be the legal representative of the public joint stock company before the judiciary and in its relationship with the third party unless the company's Articles of Association provide for that the general manager shall act as the company's representative before the judiciary and in its relationship with the third party; i.e., chairman of the board of directors or general manager are described as the representative (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 155(1)).

It is committed to any act or behavior issued by the authority authorized to manage the company while practicing the management activities in the usual manner. The company is also committed to any activity carried out by one of its employees or agents, as long as he is entitled to act on its behalf and the third parties relied on that while dealing with the company (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 23).

Accordingly, the company enjoys its independent personality from the director and members of the board of directors, and therefore, the change in the personality of the company's representative (director and members of the board of directors) shall not affect the juridical personality of the company. Since the company's personality is independent of the personality of the director and members of the board of directors in such a manner, then the question arises here: What is the effect of the company's conversion or change in its legal form on the authority of the directors and management structure?

It is noticed that the company's conversion process may entail the demise of the directors' authority to deal in the company's name and represent it before the third party and before the judiciary, and such authority is transferred to who manages the company following the conversion according to the management system of the form to which it is converted (Fahim, 1986) and (Saudi, 1988). However, the demise of the authority of the director or directors as directly affecting the conversion shall not affect the case to which the company is a party, whether as a plaintiff or defendant, rather it maintains its capacity in the cases, and this is justified by the continuity of the legal personality of the converted company and its independence from the director's personality, as the company's juridical personality shall not be affected by the change in the personality of the director or his authority (Al Sobek, 2012).

Yet, the question that arises here: Is the end of the directors' authority a direct effect of the conversion amount to their dismissal? Do they have the right in this case to claim compensation?

The director's approval is not a condition for the validity of the conversion of the limited liability company into a public joint stock company or vice versa or the conversion of the private joint stock company into a public joint stock company or vice versa (Fahim, 1986). Hence, we can say that termination of the directors' authority in case of conversion shall not be considered the dismissal of them. Therefore, they are not originally entitled to claim for compensation (Fahim, 1986) unless the director whose authority demised proves that the sole purpose of the conversion was to dispose of him and deprive him of his rights; i.e., the conversion was to cause damages, and in such case, he is entitled to claim for compensation. Such compensation focuses on the damage that occurred upon fulfillment of its justifications, without affecting the conversion. Therefore, the conversion shall remain valid upon fulfillment of its conditions and procedures (Saudi, 1988).

With regard to the partnership company, limited partnership company, and partnership limited by shares, it is established that the company's management shall be carried out by all active partners therein, as each active partner in those companies shall be considered as an agent on behalf of the company and the remaining partners in relation to the company's business, unless the management, pursuant to the company's Articles of Association or a separate contract, is entrusted with to a partner or more or to another person other than the partner. It is understood that a non-managing partner shall not interfere in the management unless otherwise agreed upon. It is also established in those companies that the decisions related to the company's business are issued unanimously by the joint partners therein unless otherwise agreed in the Memorandum of Association of the company (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 45). Accordingly, in applying those rules to the conversion of partnerships and partnerships limited by shares, it can be said that the partners must unanimously agree to their conversion (Fahim, 1986; Saudi, 1988).

Accordingly, the conversion of a partnership company, a simple partnership company, or a company limited by shares into a public joint stock company must be based on the approval of all the joint partners therein; however, the Articles of Association of those companies may require a specific majority for the issuance of decisions

related to the company's business, considering such conversion as one of the decisions related to the company's business. Such a majority may be a numerical majority or a percentage in the capital, or both of them, as there are no restrictions on determining such a majority.

In such case, approval of the founding director (which is the partner appointed by the Memorandum of Association) is required for the conversion, as it is distinguished by a privileged position in the partnerships and partnerships limited by shares. From a practical point of view, he is not subject to dismissal, as he may only be removed for a legitimate reason or by a court decision. Further, the issuance of decisions related to the business of partnerships or partnerships limited by shares requires unanimity of the joint partners therein, and dismissal of the founding director in those companies can only be achieved upon unanimous consent of the other joint partners (Fahim, 1986; Saudi, 1988).

However, if the manager is a partner and appointed according to a separate contract from the company's Memorandum of Association, or was not a partner, whether he was appointed by the company's Memorandum of Association or under a separate contract, he may be dismissed by a decision from the majority of the partners or by a ruling from the competent court. In all cases, the dismissal of the manager shall not result in the dissolution of the company unless the Memorandum of Association stipulates otherwise (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 47).

If the founding director is a partner in those companies, then he must vote in case of his dismissal, and it is not reasonable for a person to vote against himself. Therefore, the partners wishing to get rid of the founding director in those companies have no way but to submit to the judiciary to issue a decision to dismiss him for licit reasons.

Accordingly, it is obvious to us that the founding director in the partnerships and partnerships limited by shares has a strong and distinguished position to oppose the idea of conversion if there is any diminution of the advantages he enjoys under those companies. However, it is noticed that the Emirati (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 47(1) and Article 66) and Jordanian (The Companies Law no. 22 of 1997 and its amendments, Article 81(a)) legislators have reduced the immunity enjoyed by the founding director in those companies and the contractual protection the founding director enjoys. Therefore, they did not require his personal consent for his dismissal. Rather, such dismissal may take place unanimously by the other partners after his exclusion.

The Memorandum of Association of those companies must stipulate their continuation upon dismissal of the manager or the remaining partners' agreement on the same following the dismissal; otherwise, dismissal of the (founding director) would result in termination of the company, as he is an active partner in those companies. In the absence of a provision and agreement among the remaining partners on the continuity, such dismissal shall result in the termination of the company. In such case, those companies would not be able to complete the conversion, which is possible for an existing company, and not a terminated one (Fahim, 1986; Saudi, 1988).

5.2.2. The effect of the conversion on the auditors

Since both legislators sought to control the companies' activities, each of them has set some rules that aim at achieving such purpose by subjecting the companies to the supervision of the concerned jurisdiction so that those companies cannot exceed the limits stipulated by the law and their Articles of Association, and among the most important of those rules is the appointment of the supervisory board in relation to the company's business.

The supervision may take place individually by appointing an auditor to supervise and monitor the company's business. In this regard, both legislators, required each of the public or private joint stock companies, as well as each of the limited liability companies, to have an auditor or more as the company deems most appropriate for its capital and volume of its operations, in order to audit the company's accounts each year (Federal Decree-Law no. 32 of 2021 concerning Commercial Companies, Article 27(1); The Companies Law no. 22 of 1997 and its amendments, Articles 87 and 192(a)).

Also, the Emirati legislator affirmed that in relation to the limited liability company, it required an LLC to have an auditor or more, to be appointed by the General Assembly of Partners each year, and the limited liability company's auditor(s) are subject to the provisions related to the auditors in the public joint stock companies, except for the provisions of Article 246 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 102).

The partnerships often do not have an auditor; however, this does not prevent the presence of an auditor, as the UAE legislator provided at the end of Article 27 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies for the appointment of an auditor in the partnership company, which is also applicable to a limited partnership company as a partnership, which is subject to the same rules that govern the partnerships.

On the contrary, the Jordanian legislator remained silent as to the appointment of an auditor in the partnerships, and we call here on the Jordanian legislator to follow the path of the UAE legislator in stipulating the permissibility of appointing an auditor in the partnerships to examine the company's accounts and determine its financial position by examining the company's books and documents and monitoring the company's budget.

The company's business may also be controlled collectively by appointing a supervisory board to supervise the company's business and monitor its financial position as in the limited liability companies, where the UAE legislator required, under the provision of Article 88 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies, the partners in the limited liability company in case the number of partners is more than fifteen partners

to entrust the supervision to the supervisory board consisting of at least three partners.

The partners shall appoint such a board to act as an agent on behalf of the partners in monitoring the company, and it shall be accountable to them for the negligence and default in its work. The members of such board are appointed for a period of three years starting from the date of the appointment decision, and the General Assembly may reappoint them upon the expiry of such period or appoint other partners, and it may dismiss them at any time for an acceptable reason, provided that the directors who are not partners shall not have a vote in electing the members of the supervisory board or their dismissal (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 88).

The supervisory board in the LLCs, if the number of partners exceeds five partners, shall have the right to examine the company's books and documents and to request the directors at any time to provide a report on their management. It shall also have the authority to monitor the budget, annual report, and distribution of the profits and to submit its report in this regard to the General Assembly of Partners at least five days before the date of its convening (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 89). Members of the supervisory board in the limited liability companies are not responsible for the directors' acts unless they are aware of the mistakes committed and omit to mention such mistakes in their report submitted to the General Assembly of Partners (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 90).

This is about the auditors in the limited liability company if the number of partners exceeds fifteen partners, but in case the number of partners in a limited liability company falls below fifteen partners, then, according to Article 91 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies, the partners who are not directors shall have all the rights associated with the partner description indicated in such Decree or the company's Memorandum of Association, and each condition to the contract shall be considered as null (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 91).

For the Jordanian legislator, it decided that the partnership limited by shares shall have a supervisory board consisting of at least three members (partners), to be elected by the shareholding partners annually for a period of one year following the procedures stipulated by the Articles of Association of the company (The Companies Law no. 22 of 1997 and its amendments, Article 84).

The duties of such board are represented in submitting a financial report on the supervisory works carried out and their results to the shareholders in the company at the end of each fiscal year and presenting such report to the company's General Assembly in its regular annual meeting, as well as sending a copy thereof to the auditor (The Companies Law no. 22 of 1997 and its amendments, Article 86). The same applies to the public and private joint stock companies, as the internal control governs the directors' acts through appointing an auditor to supervise their acts, as it would not be possible for all partners to do that by themselves, and each public and the private joint stock company shall have an auditor or more to be nominated by the board of directors of the company (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 245(1)). The auditor shall audit the company's accounts, examine the budget and statement of profits and losses, review the company's transactions with the related parties, and also submits a report on the result of such examination to the General Assembly and send a copy thereof to the Securities and Commodities Authority and competent authority (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 248(1)).

It may also review all the company's records, papers, and other documents to verify the company's assets, rights, and obligations and may request the clarifications it deems necessary to fulfill the tasks entrusted to it.

The auditor shall, when preparing his report, ensure the extent of validity of the accounting records maintained by the company and the extent of consistency between the company's accounts and the accounting records (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 248(2)). In this regard, he may review all other records, papers, and documents, he may request the clarifications he deems necessary to fulfill his duties, and may verify the assets, rights, and obligations of the company (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 248(3)). Thereafter, he must issue a report on the reflected accounts reviewed, indicating whether the accounts have been prepared following the provisions of the law and whether the accounts give a fair image of the company's financial position (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 247).

In addition to the internal control over the company's business, the legislator has organized another type of control, which is the external control, which is represented in inspecting the works and accounts of the joint stock companies, as each of the Minister of Economy, with regard to the private joint stock companies, and the board of directors of the Securities and Commodities Authority, in relation to public joint stock companies, is entrusted with setting the inspection procedures and authorities and duties of the inspectors (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 341) in order to verify the seriousness of the company's project and the extent of the seriousness of the company in implementing the provisions of the Federal Decree-Law no. 32 of 2021 on Commercial Companies and the relevant laws and decisions and Articles of Association of the company. The legislator in Article 340(1) has permitted the Securities and Commodities Authority and the competent authority to use an expert or more from the authorities that have the technical and financial experience under the subject matter of the inspection.

Inspection of the joint stock companies' business and their accounts entails a number of important results related to the dissolution of the company, members of the board of directors, and the company's auditors.

The Ministry of Economy, the Securities and Commodities Authority, and the competent authority (each within its jurisdiction):

- might request a judicial dissolution of the company if it was established in violation of the provisions of the law (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 340(2));
- may invite the General Assembly to consider dismissing the members of the board of directors and to sue them for responsibility, dismissal of the company's auditor, and sue them, if there are violations that constitute a criminal offense against them (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 344(2));
- may, if it appears that whatever is leveled against the members of the board of directors or the auditors is incorrect, publish the inspection result in one of the local daily newspapers issued in the Arabic language, and oblige the inspection applicants to pay its expenses, without prejudice to the civil and criminal responsibility, if required (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 345).

Having discussed the situation of the auditors in both jurisdictions, we move to the impact of the conversion on the auditor's position. The question that arises here is: Does the auditors' task end following the conversion or not?

In order to answer this question, we must differentiate between two assumptions, as the conversion can either be from a form subject to the auditors' regulation to another form similar to it in the submission to such regulation, and it may be to another form that is beyond such regulation.

In the first assumption: if the conversion from a form subject to the auditors' regulation to another form similar to it complies with the auditors' regulation as well, then in this assumption, we find that the auditors' position is not affected by such conversion. Rather, they continue to perform their work without this continuation being considered a new appointment. In other words, if the new rules applied in the new form indicate its existence, then such conversion shall not end the auditors' task.

This assumption is represented in the UAE legislation in the case of a private joint stock company or an LLC, in case the number of partners therein exceeds fifteen partners (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 88(1), is converted into a public joint stock company. Such assumption is also represented in the Jordanian legislation in case a private joint stock company, limited liability company, or a company limited by shares converted into a public joint stock company or vice versa.

In the second assumption: if the conversion from a form subject to the auditors' regulation to another form that is not legally committed to such regulation, and such assumption is represented in the UAE law in the conversion of the joint stock companies or an LLC, if the number of partners therein exceeds fifteen partners, into a partnership or limited partnership company, so that the partnership or limited partnership company are not subject to the auditors' regulation. This assumption is also represented in Jordanian law in case an LLC or a partnership limited by shares (The Companies Law no. 22 of 1997 and its amendments, Articles 82, 84, and 86) is converted into a general partnership or a limited partnership company. In this assumption, the original task of the supervisory board shall come to an end, and the converted company shall become subject to the new form of regulation, which is the general partnership or the limited partnership, under the rule that the converted company shall become subject to the regulation of the form to which it is converted.

Having discussed the auditors' position in both jurisdictions, we can say that the status of the auditors is not affected by the cases of conversion of the public joint stock companies that are permissible in UAE law. If the company is converted from the form of a private joint stock company or an LLC to a public joint stock company, the auditors' task does not come to an end. Rather, they continue their duties without considering such continuation as a new appointment (Fahim, 1986).

The auditors' situation is not also affected by the conversion cases of a public joint stock company licensed under Jordanian law. If the limited liability company and the partnership limited by shares are converted into a joint stock company, the auditor's task shall not come to an end, yet they shall continue their jobs in the converted company without considering such continuation as a new appointment for them.

The converted company's submission to the regulation of the new form to which it converted may change the management structure and put an end to the task of the supervisory board in case the conversion is made to a form that is not compliant with such regulation. In applying the principle of continuation of the legal personality of the converted company, the converted company may not be treated as the treatment of the new company, which indicates that the provisions on the establishment of the form to which it is converted shall not apply to the conversion case.

5.3. Increasing the capital of the company converted into a public joint stock company

The UAE legislator required, according to Article 281 of the Federal Decree-Law no. 32 of 2021 on Commercial Companies, the company willing to convert into a public joint stock company upon approval of the Securities and Commodities Authority and issuance of a special resolution from its General Assembly, to increase their capital by selling their shares and introducing new shares to the public for subscription under the controls issued by the Authority in this regard (Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 281(1)).

On condition that the shareholders or partners of the company wishing to convert it to the public shareholding form shall bear the liability and pay all expenses resulting from the conversion until the completion of the company's conversion procedures and its registration in the Commercial Register as a public joint stock company with the Securities and Commodities Authority and the competent authority in this regard in the concerned emirate.

These expenses include, for example, the evaluation of the company's assets and property, all fees and the charges payable to the parties participating in the subscription process without charging the public sharing company subscribed in with those fees the shareholders are assigned to pay

(Federal Decree-Law no. 32 of 2021 on Commercial Companies, Article 281(3)).

In addition, the legislator permitted the trading of the founders' shares, in cash or kind, for the company after its conversion into a public joint stock company from the date of its listing in the financial market in the state or from the date of its registration in the commercial register with the competent authority in the event of companies excluded from the listing.

This provision is an exception to the provision contained in Article 217(1) of the Federal Decree-Law no. 32 of 2021 on Commercial Companies, where the legislator prohibited trading the company's founders' shares, in cash or kind, before publishing the balance sheet and calculating the profits or losses for at least two financial years starting from the date of its listing in the financial market in the state, or from the date of its registration in the commercial register with the competent authority in the case of companies excluded from the listing. These shares are marked as evidence that they are founders' shares. This prohibition also applies to the shares that the founders subscribed to in the event of an increase in the capital before the expiry of its term.

The Jordanian legislator is also required under Article 220 of The Companies Law no. 22 of 1997 and its amendments to raise the company's capital after converting it to a public joint stock company as per the special legal procedures followed in this regard, in the case in which the capital resulting from the re-evaluation is less than the minimum capital of the joint stock public shareholding company.

6. CONCLUSION

The conversion of a company does not entail the expiration of the legal personality of the transferred company and the creation of a new legal person. As a result thereof, it remains the owner of its assets and funds, as the conversion does not affect the financial liability of the transferred company; it remains in existence with its assets and liabilities, i.e., it continues to enjoy the same liability in all aspects inclusive of its rights and obligations, given that the company performs dealings with third parties before carrying out the conversion, which entails being a creditor and debtor, and has rights and dues to be fulfilled to third parties.

The idea of the continuation of the legal personality of the transferred company ensues not obligate the transferred company to re-register in the commercial registry, but it is committed to declare this conversion only, and it is not obligated to keep new books. Nevertheless, this change does not affect lawsuits filed by the company or against it due to the continuation of its legal personality after the conversion and its ongoing concern accordingly as the owner of the capacity in these lawsuits.

It is not permissible for the transferred company to dissociate itself from the contracts it had concluded before the transfer. Instead, these contracts shall remain existing and ongoing, and all that is required in this case is to replace the name of the transferred company with the name of the transferee company as one of the parties to these contracts, except for this formal procedure, all terms of these contracts remain unchanged.

This paper holds significance for future research in the field of company conversion as it provides valuable insights into the legal implications and consequences of such conversions. The findings highlight that the conversion of a company does not result in the expiration of its legal personality, but rather the company retains its existing legal status, including ownership of assets and financial liabilities. This understanding contributes to the broader understanding of company law and assists in clarifying the legal framework surrounding conversion processes.

However, it is important to acknowledge certain limitations of this research. Firstly, the study primarily focuses on the Emirati and Jordanian legal systems, which may limit the generalizability of the findings to other jurisdictions. Future research could explore the implications of conversion in different legal contexts to provide a more comprehensive understanding.

Additionally, while the paper addresses the continuity of legal personality and ongoing contracts, further investigation could delve into specific issues that may arise during the conversion process, such as the treatment of employees, tax implications, or potential conflicts between pre-existing contractual obligations and the conversion itself. Examining these aspects would provide a more comprehensive analysis of the challenges and considerations related to company conversion.

By considering these limitations and expanding the scope of research, future studies can build upon the findings of this paper and contribute to a deeper understanding of company conversion from both theoretical and practical perspectives.

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