

Newsletter

| Sixth Edition, March 2021 |

Welcome to the sixth issue of our newsletter in which we will be looking into the following:

1. The extent of the constitutionality of Article (20) of the Jordanian Execution Law following its amendment (pursuant to the ruling issued by the Constitutional Court).
- The most prominent provisions of the Companies Liquidation Regulation No. (6) of 2021.
- The most prominent provisions of the Income Tax Regulation in the Development Zones No. (11) of 2021.
- The most prominent provisions of the amended Regulation for Advertisement Licensing within the boundaries of the Greater Amman Municipality No. (13) of 2021.
- The Decision specifying the most circulated daily newspapers for the purpose of publishing advertisements and judicial notices of the year 2021.

“The principle of equality is not achieved by solely applying one legal action to all those who hold the same legal position, but also by subjecting those who hold different legal positions to a different legal action.”



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First: The extent of the constitutionality of Article (20) of the Jordanian Execution Law following its amendment (pursuant to the ruling issued by the Constitutional Court).

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The Constitutional Court issued in early 2021 a ruling that included a withdrawal of the right to appeal on the grounds of unconstitutionality of the amended Article (20) of the Execution Law No. (25) of 2007⁽¹⁾. This was based on the assertion that the amended wording [of Article 20] contravened the provisions of the Constitution by defining the jurisdiction of the Civil Courts⁽²⁾ which is not permissible under the laws. Specifically, to affect the essence of the rights guaranteed in the Constitution and to infringe those⁽³⁾,

in particular the rights to litigation ⁽⁴⁾ and to equality before the law ⁽⁵⁾.

The wording prior to the amendment had allowed for an appeal on all the decisions issued by the Chief Enforcement officer before the Court of Appeal, without it being limited to specific decisions whilst excluding others. Concerning the wording post-amendment, that has limited the decisions that can be appealed into eleven decisions only. Based on this, an appeal was filed on the grounds that limiting the right to appeal to specific decisions whilst excluding others, would deprive the parties of the enforcement claim from a certain

1 Article amended under the Execution Law No.(29) of (2017).

2 Article (102) of the Constitution of the Hashemite Kingdom of Jordan stipulates that: “*The Civil Courts in the Hashemite Kingdom of Jordan shall have jurisdiction over all people in all matters, civil and criminal, including cases brought by or against the government, except for those matters in respect of which jurisdiction is vested in Religious or Special Courts in accordance with the provisions of the present Constitution or any other legislation in force*”

3 Article (128/1) of the Constitution of the Hashemite Kingdom of Jordan stipulates that: “*Laws issued under this Constitution to regulate rights and freedoms shall not affect the essence of these rights or affect their fundamentals*”

4 Article (101/1) of the Constitution of the Hashemite Kingdom of Jordan stipulates that: “*The Courts shall be open to all and shall be free from any interference of their affairs*”

5 Article (6/1) of the Constitution of the Hashemite Kingdom of Jordan stipulates that: “*All Jordanians shall be equal before the Law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion*”.



stage/tier of the litigation process. The Constitutional Court concluded otherwise; as it found that the litigation in the enforcement claim is still a two stage/tier litigation and that what the legislator has done is limited specifically to: regulating those cases in which the parties to the claim can exercise their right to appeal the decisions of the Chief Enforcement officer and the appeal's subject matter. In fact, restricting the right to appeal would not delay the access of the right holder's to his/her right, whereby it falls under the discretionary power of the legislator since it gives him/her the right to carry out the legislative duties as he/she deems appropriate.

The Constitutional Court also indicated that the appeal did not affect any of the constitutional provisions relied upon, and that in all cases the principle of equality is not solely achieved by applying one legal action to all those who hold the same legal position, but by also subjecting those who hold different legal positions to a different legal action. Therefore, please note that not all decisions issued by the Chief Enforcement officer can be appealed, rather, the decision's ability to be appealed or not depends on its relevance or not to one of the eleven matters that are stipulated in Article (20) of the Execution Law.

Second: The most prominent provisions of the Companies Liquidation Regulation No. (6) of 2021.

A key element in the provisions of the Regulation, is that the Regulation shall not apply on the company in those cases that are dealt with in accordance with the provisions of the Insolvency Law and the Insolvency Regulation. Further, the Regulation specifies the voluntary and compulsory liquidation procedures, the duties of the liquidator, its conditions and fees. Furthermore, the Regulation addresses specific scenarios of the liquidation process, including:

- Insufficient funds of the company to cover the required expenses and the expenses arising out of the compulsory liquidation, whereby the Regulation has established an account at the Companies Control Department to cover those expenses.
- Insufficient funds of the company to pay its debts and obligations.



The Regulation has provided to the liquidation judge the authority to dismiss the liquidator and to appoint his/her replacement at the judge's own initiative or at the request of the Companies Controller or of creditors in those cases where the liquidator has violated or failed to implement the provisions of the law.

The Regulation was published in the Official Gazette No. (5689) on 17 January 2021 and it shall be enforced as of the date of its publication in the Official Gazette.

Third: The most prominent provisions of the Income Tax Regulation in the Development Zones No. (11) of 2021.

The Regulation aims to regulate the procedures for imposing income tax on entities that are registered in the Development Zones in order to comply with the amendments made in the Income Tax Law under the Amendment Law No. (38) of (2018) and to achieve international best practices in the field of imposing income tax in the preferential tax regulations.

The Regulation was published in the Official Gazette No. (5691) on 19 January 2021 and it shall be enforced as of the date of its publication in the Official Gazette.

Fourth: The most prominent provisions of the amended Regulation for the Advertisement Licensing Regulation within the boundaries of the Greater Amman Municipality No. (13) of (2021).

The amended Regulation aims to encourage investment in the advertising sector of the Municipality, by reducing the licensing fees and the fines that are imposed in the event of a delay in the renewal of the license and to refrain from limiting advertisement to specific sites only. Also, the amended Regulation includes new fees for advertising and for billboard advertisement within the borders of the Amman Municipality. The Regulation was published in the Official Gazette No. (5696) on 1 February 2021 and it shall be enforced as of the date of its publication in the Official Gazette.



Fifth: The Decision to determine the most circulated newspapers for the purpose of publishing advertisements and judicial notices for the year (2021).

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The Minister of Justice has issued a Decision pursuant to which the most circulated local newspapers have been determined to be as follows: Al-Ghad newspaper, Al-Rai newspaper and Al-Dustour newspaper.

Also it is worth mentioning that the Jordanian legislation (including the Code of Civil Procedures and the Execution Law) require in some of their provisions publication in the most circulated local newspapers, for example publication of notices. The Decision was published in the Official Gazette No. (5696) on 1 February 2021 and it shall be enforced as of the date of its publication in the Official Gazette.



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If you would like to discuss further any aspect of this Newsletter, please do not hesitate to contact any of our attorneys using the contact details in the Contributors section below.

6 If you feel that other persons would be interested to read this Newsletter, please feel free to share this Newsletter.

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Warm regards,

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ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by Professor Dr. Mohammad Hammouri. Professor Hammouri is the Chairman of the board of directors of Hammouri & Partners, a lawyer and an arbitrator, a former Minister of Culture and National Heritage and the former Minister of Higher Education. Professor Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at the University of Jordan in which he was its first Dean.

Today, the firm is managed by Dr. Tariq Hammouri, an academic, an attorney and a former Minister of Industry, Trade and Supply. Dr. Hammouri is both an experienced attorney and an arbitrator in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law, International Trade and negotiations. He is the Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law.

Hammouri & Partners team consists of 25 lawyers and a number of other professionals, working in the firm's specialized departments to provide professional legal services to the clients on a local, regional and international level.

The firm's legal services cover several areas of practice, including: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property Law, Banking and Finance Law (the firm advises local and international banks regarding Banking Transactions and Regulatory Compliance). Additionally, the firm's Litigation and Arbitration Department has the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before the courts or arbitration tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International Department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those related to bilateral and international trade negotiations, projects, concluding contracts and other.

In addition to the above, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction and Infrastructure, Manufacturing, Engineering, Trade, Insurance and Energy, since some of its clients are major energy, healthcare, information technology and telecoms companies.

Hammouri & Partners Attorneys at-Law provides its broad services throughout Jordan as well as worldwide, through established collaborations with reputable law firms in the MENA region, in Europe, the United Kingdom and the United States. Hammouri & Partners' proven capability on the above areas of law has earned the firm international acclaim by the most reputable legal directories, including: The Chambers and Partners Global, the International Financial Law Review (IFLR 1000), the Legal 500.



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