

Newsletter

Seventh Edition, April 2021

1

Welcome to the seventh edition of our Newsletter. In this edition, we will explore the legal protection mechanisms of the Arabic Language under the Jordanian law. We will also explain in details the most prominent provisions of the Protection of the Arabic Language Law No. 35 of 2015 (hereinafter referred to as the “Law”). Amongst those are the following:

- Scope of the Law and the margin of protection provided.
- Persons who are subject to the Law and the exemptions provided.
- Matters and topics required to be expressed and communicated in the Arabic Language.
- The use of foreign languages according to the Law.
- The Penalty imposed for the violation of the Law.
- Protection of the Arabic Language pursuant to other Jordanian legislative tools.

“The strength of nations and people stem from their pride and interest in their own language. A person feels an unparalleled power while speaking in their mother tongue, which is reflected in the opinions and ideas he/she expresses and in the agreements he/she concludes. The power and the wisdom that lie behind words have no value if they are not surrounded by the needed protection and care, and Law ensures the best protection”



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building # 96, 3rd Floor

+962 6 569 1112

info@hammourilaw.com

The Scope of the Law and the Margin of Protection Provided

Arab poets such as Hafez Ibrahim often praised the importance of language and its impact on the strength of individuals and nations, as it is no secret that the strength of nations and people stem from their pride and interest in their own language. A person feels an unparalleled power while speaking in their mother tongue, which is reflected in the opinions and ideas he/she expresses and the agreements he/she concludes. The power and the wisdom that lie behind words have no value if they are not surrounded by the needed protection and care, and law ensures the best protection. The public demand for the legalization is a great testimony to the scope of protection laws can provide, and the protection of languages has acquired the greatest public demand.

This is what several countries have perceived, for example France issued many legislations (such as the Toubon

law of 1994) that ensure the protection of the French language against the domination of other languages. In fact, the legal protection set by the French Law is unprecedented and has led some researchers to dub this protection as a French love affair with the national language.⁽¹⁾ More to the point, the Republic of Iraq was among the first countries to acknowledge the importance of language, whereby it issued Law No. 64 of 1977 to safeguard the Arabic language, similarly, the state of Qatar issued Law No. 7 of 2019 to protect the Arabic language. It can be inferred from the above facts that countries concede laws as the umbrella that safeguards national languages.

On the other hand, the Jordanian Legal system provides scattered texts in different Jordanian laws and regulations aimed at the protection of the Arabic language and encouraging its use. However, the Law (the Protection of the Arabic Language Law No. 35 of 2015) might be the most important

¹¹ Vantson, Christine. In search of the Mot Just: The Toubon Law and The European Union, Boston College International and Comparative Law Review, Vol.22, 1999, p.175



3

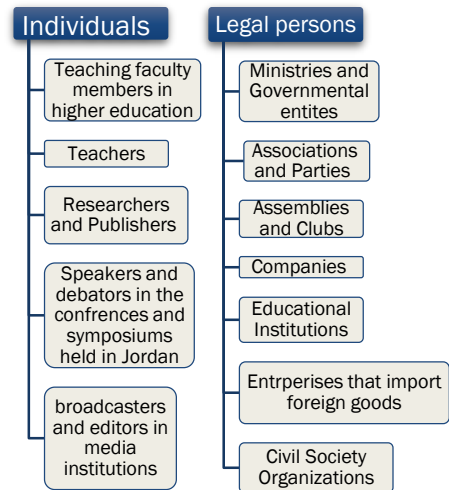
legislative tool that the Jordanian legislator issued in this regard. The rationale behind its issuance is evident by its name, as this Law aims at providing a legislative protection for the Arabic language; being the official language of Jordan.

Since this Law imposes numerous obligations on individuals and institutions and entail penalties if these obligations were violated, we decided to dedicate one of our Newsletter editions to shed light on the obligations provided by the Law to protect the Arabic language and the penalty imposed, to ensure that you are well-informed about the different aspects of any law affecting the daily lives of individuals and institutions (which many people are unaware of their existence and impact), and most importantly the language used to perform these daily activities.

First: Persons who are Subject to the Law

The Law does not include one particular article that thoroughly explains or defines persons who fall within the scope of the Law, but rather the Law mentions these persons in several

articles. Upon examining these articles, we find that the obligation to use the Arabic language is not limited to citizens or natural persons only, but also includes legal persons who are obliged to abide by the provisions of the Law. The question that arises here is whether it is a requirement to all legal persons to abide by the obligation set by the Law to use the Arabic language. It can be said that this obligation falls upon all individuals as well as each legal entity irrespective whether it is a public institution or a private institution. The following is a figure that shows some of the categories that were covered by the Law explicitly.



It is possible that we might be taken back to a situation or a time where some of these institutions or individuals highlighted in the above figure did not use the Arabic language or did not speak the Arabic language. Will such an action be considered as a violation of the Law and prompts the pursual of a penalty against them? The Legislator has considered such scenario, and the Law exempts several categories from the legal obligation to use the Arabic language. These categories include entities and individuals working in departments of foreign media, as well as teachers who do not speak Arabic or teachers who teach a foreign language and are recruited by educational institutions upon an approval of the concerned ministry. Moreover, certain sectors such as the Ministry of Education and the Ministry of Higher Education and Scientific Research are authorized to exempt any educational institutions from using the Arabic language. ⁽²⁾

The Law is characterized with its broad scope of application in terms of persons governed, indicating the importance of this Law for the Legislator. It is noted that the Legislator is keen on providing the greatest amount of protection for the Arabic language through widening the spectrum of persons required to use the Arabic language. Furthermore, the exemptions given by the Law are calculated; reflecting the lawmakers' awareness of those who may not be able to satisfy the obligation of using the Arabic language or whose work might not allow the application of such obligation or require the use of the Arabic language. All of this ensures the plausible implementation of the Law.

Second: The Scope of the Application of the Law

In this part, we will discuss the extent of the use of the Arabic language and highlight matters or topics which are required to be expressed in Arabic. As a general rule, public and private institutions (including companies) must

² Article 10 and 13 of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347



use Arabic in every official activity, and this use is inclusive of all aspects of this activity; meaning that Arabic must be used to communicate everything that is done or issued by these institutions, including the following:

- The name of the institutions, which must be in a proper Arabic.
- The transactions with other institutions and/or individuals.
- The contracts that the institutions execute.
- The tenders that the institutions bid on.
- The letters, posts, lists, price lists issued by these institutions.

All the above represents official work activities which must be expressed and written in the Arabic language.⁽³⁾

Moreover, teaching ought to be conducted by teachers & faculty

members in Arabic. Likewise, researchers & publishers must use Arabic in the writing and publication of scientific research, as well as speakers and debaters are required to use Arabic in speeches and discussions held at conferences and meetings in Jordan. Therefore, every individual is required to express and communicate their work using the Arabic language.⁽⁴⁾

In addition to the above, each advertisement posted, broadcasted or installed on public roads, in public places, and in public transportation must be expressed and written in a proper Arabic language.⁽⁵⁾ Furthermore, the names of every public and private institution should be expressed in an Arabic name.⁽⁶⁾ Moreover, any name given to an institution must be expressed in Arabic.

³ Article 3 (a) of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347

⁴ The Law emphasizes the need for the Jordanian Country and particularly the Jordanian Government to use the Arabic language, as it indicates that all legislations must be written in the Arabic language; and all negotiations, discussions, correspondences, agreements with other governments and international bodies must be carried out in Arabic whenever that is possible.

⁵ Article 4 (a) of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347

⁶ Article 6 (b) of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347



Third: The Use of Foreign Languages According to the Law

The obligation to use the Arabic language as discussed above, does not necessarily mean that the use of a foreign languages is entirely prohibited. Whereas the use of foreign languages is limited to certain cases and is contingent upon the fulfilment of specific requirements, which indicates that the Jordanian Legislator has not disregarded the widespread use of foreign languages and has recognized the circumstances where persons falling within the scope of the Law may deal and interact with others who do not speak, use or understand the Arabic language.

Hence, the authorization to use foreign languages and regulating this use in a manner ensuring the needed protection for the Arabic language is essential. For instance, the Law allows adding a translation into a foreign language of any advertisement published or posted on two conditions: The Arabic text must be larger and in a more visible place.⁽⁷⁾

It is also possible to publish research in a foreign language, provided that the researcher submits an Arabic translation to the relevant authorities.⁽⁸⁾

The above provisions of the Law and other Jordanian Legislations indicate that the use of a foreign language does not override the use of the Arabic language, which is exemplified in the legal obligation to submit/add a translation for foreign texts and the prevailing of Arabic texts in case there was any discrepancy between the Arabic texts and the foreign texts. This is in particular what foreign people or institutions should pay a close attention to whenever they want to enter into an agreement or a deal with a party subject to the provisions of the Law.

Fourth: Ensuring the Effective Implementation of the Law

The Law attempts to ensure the effective implementation of its provisions by stipulating a requirement to pass an Arabic proficiency test and by imposing a penalty on those who violate its

⁷ Article 4 (a) of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347

⁸ Article 8 of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347



provisions. More to the point, the Law states that the passing of an Arabic proficiency test is a mandatory requirement for the appointment of teachers in public education schools, faculty members in higher education, broadcasters and editors in media institutions, ⁽⁹⁾ excluding those exempted categories from the application of the Law.

On the other hand, the Law did not overlook the importance of imposing a penalty on those who violate its provisions or the provisions of the regulations and instructions issued pursuant thereto. The Law imposes a fine of a minimum one thousand Jordanian Dinars and a maximum of three thousand Jordanian Dinars on any person, entity, institution violating those provisions. It is noted that the severity of this penalty is proportionate with the nature of the violation, as the violation in this case relates to the official language of the country.

It is worth noting in this regard, that most of the criticism surrounding the Law is not directed to the scope of its application or to the type and amount of the fine imposed, rather it is directed to the effectiveness of its application and the extent of supervision allowed on the actuality of implementation of the Law. These criticisms were described as “loopholes”, and one local newsletter explained that the lack of issuance of a regulation or instructions regulating the process to inspect or verify the compliance of expressing names in the Arabic language hinders the extent to which penalties are imposed on those who violate the Law.⁽¹⁰⁾

Fifth: The Protection of the Arabic Language in Other Jordanian Legislations

The second article of the Jordanian Constitution could be the most prominent legislative text that laid the foundation for the protection of the Arabic language, which states that the

⁹ Article 10 (a) of the Protection of the Arabic Language Law No. 35 of 2015 published in the official Gazette edition 5347

¹⁰ Alrai Newspaper, 28/11/2019.



Arabic language is the official language of the Hashemite Kingdom of Jordan.

Therefore, it can be said that the aforesaid article provides the first form of protection for the Arabic language and ensures its superiority in Jordan. Consequently, all other legislations should ensure that its provisions safeguard the Arabic language which we have noted upon examining several relevant Jordanian legislations.

We conclude from this newsletter the importance of the Protection of Arabic Language Law and its great impact on the works of individuals and institutions alike. We also found that many legislative texts in other reinforce and emphasize on what is provided under the

aforenamed Law.

Notwithstanding the aforementioned, we also found that there are shortcomings in the implementation of the provisions of this Law in reality including lack of response to or respect of the obligations it imposes, which motivated us to address it via this newsletter, and to present its most prominent provisions and deliver it to largest number of layman readers in an attempt to make them aware of any obligations it imposes on them.

In the following page, we will present some articles from other Jordanian legislations that are relevant to the protection of the Arabic Language.



Article 15 of the labor law No. 8 of 1996 and its amendments explains that the employment contract shall be drawn up in Arabic, and in case the employee does not have an Arab nationality then another copy shall be written in an approved foreign language. It can be noted that this article does not allow contracts to be written in a foreign language only, but an Arabic copy is always a must.

Article 28 of the Arbitration Law No. 31 of 2001 stipulates that "Arbitration shall be conducted in the Arabic language unless otherwise agreed by the parties or that the arbitral tribunal determines another language or languages to be used".

Article 22 of the Notary Public Law No. 11 of 1952 and its amendments shows that all papers prepared by the notary public must be written in the Arabic Language, and in case a paper was written in another language then it must be translated into Arabic before its authentication. Thus translating the paper to Arabic is a requirement that needs to be fulfilled.

Article 53 of the Public Health Law No. 47 of 2008 asserts that signs and advertisements must be in the Arabic Language, as it stipulates that the announcement of a (legally permitted) designated smoking area in a public space must be done clearly "in a highly visible place and in the Arabic Language"

The Protection of the Arabic Language in Jordanian Legislations

The insurance policy that takes place in Jordan is written in the Arabic language pursuant to Article 29 of the Regulation of Insurance Works Law No. 33 of 1999 and its amendments. This Law allows the attachment of a sufficient translation in another Language. However, the Arabic text prevails in case there is any disagreement on the interpretation of the policy with an attached translation.

Article 6 of the Trade Names Law No. 9 of 2006 asserts that trade names must be registered in Arabic, and that the registration of a Trade Name in a foreign language is permissible subject to the registrar's decision and provided the trade name belongs to foreign persons or companies or mixed capital companies that are registered and used outside the Kingdom.

Article 67 bis of the Companies Law No. 22 of 1997 stipulates that "the company's articles and memorandum of association shall be in Arabic. However, they may be accompanied by a translation into another language. The Arabic language must prevail in the case of conflict between texts".

The Higher Education & Scientific Research and the Protection of Culture Laws, No. 17 of 2018 and No. 36 of 2006 respectively, emphasize (1) the importance of the Arabic Language and (2) the need to declare it as a scientific teaching and learning language across all levels of higher education, encourage scientific authorship in it.



If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors section below.

10

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

If you wish not to have our upcoming newsletter or if you wish to amend the contact details, please inform us via sending an email to info@hammourilaw.com, titled “non-subscription” and/or “amending the contact details”.

Warm regards,

HAMMOURI & PARTNERS ATTORNEYS AT-LAW



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building # 96, 3rd Floor

+962 6 569 1112

info@hammourilaw.com

Hammouri & Partners Attorneys at-Law
©2021

CONTRIBUTORS TO THIS EDITION

11



TARIQ M. HAMMOURI, LL.M , PH.D
MANAGING PARTNER
tariq@hammourilaw.com



OMAR SAWADHA
SENIOR ASSOCIATE, HEAD OF LITIGATION
omar.s@hammourilaw.com



YOTTA PANTOULA-BULMER
OF-COUNSEL, HEAD OF INTERNATIONAL DEPARTMENT
yotta.b@hammourilaw.com



KHALID MOUSA
ASSOCIATE
khalid.m@hammourilaw.com

RAHAF ALSHNEIKAT
ASSOCIATE
rahaf.sh@hammourilaw.com



OMAR ABU AYYASH
ASSOCIATE
omar.a@hammourilaw.com



SABA AL-QABELAT
TRAINEE LAWYER
saba.q@hammourilaw.com



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building # 96, 3rd Floor

+962 6 569 1112

info@hammourilaw.com

Hammouri & Partners Attorneys at-Law
©2021

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 Mohammad Hammouri. Professor Hammouri is the Chairman of the board of Hammouri & Partners Attorneys at-Law, a litigator as well as an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad 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, attorney and a former Minister of Industry, Trade and Supply. Dr. Hammouri is both an experienced attorney and arbitrator in the Corporate sector, Commercial Transactions, Financial Markets, Banking, International Trade and negotiations. He is an 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 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level.

The firm's legal services cover numerous areas of practice, including the following: 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 all 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 courts and arbitral 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 regarding bilateral and International Trade negotiations, projects, contracts and others.

In addition, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Insurance and Energy, as 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 USA. Hammouri & Partners' proven capability on the above areas of law has earned the firm international acclaim by the most reputable legal directories. The International Financial Law Review (IFLR 1000), the Legal 500 and the Chambers and Partners Global, all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building # 96, 3rd Floor

+962 6 569 1112

info@hammourilaw.com