

Newsletter

19th Edition, April 2022

Welcome to the nineteenth edition of our Newsletter. In this Newsletter we will look into the concept of joint ventures amongst companies and their impact on Jordanian legislation, as follows:

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“The exchange of experiences and knowledge between a number of companies under one umbrella is referred to as a Joint Venture; a Joint Venture will often improve the chance of achieving the desired goal better than the goal being accomplished by one company individually, as sometimes any of the involved companies may not be able to carry out substantial projects individually, the nature of which may require cooperation in practical and scientific experiences with other companies.”



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Even though the Joint Venture is not granted a separate commercial register in accordance with the provisions of the Jordanian Companies Law No. 22 for the Year 1997 and its amendments (the ‘**Companies Law**’) in the records of the Companies Control Department at the Ministry of Industry, Trade and Supply, this does not negate the fact that the Joint Venture has the status of a company, however, that is subject to certain rules and conditions in accordance with the provisions of articles (582) and (583) of the Jordanian Civil Law No. (43) of 1976.

Hence, we decided to dedicate one of our Newsletters to clear some of the ambiguities that surround this concept, whether the Joint Venture is an actual company or not, by analyzing the concept of the Joint Venture as well as the reasons that may lead to the formation of Joint Ventures; We will then address the procedures for registering a Joint Venture, and in conclusion we will review the most prominent impact of Joint Ventures on Jordanian legislation from our point of view.

First: The concept of the Joint Venture

At the outset, we would like to point out that the exchange of experiences and knowledge between

a number of companies under one umbrella is referred to as a Joint Venture; a Joint Venture will often improve the chance of achieving the desired goal better than the goal being accomplished by one company individually, as sometimes any of the involved companies may not be able to carry out substantial projects individually, the nature of which may require cooperation in practical and scientific experiences with other companies.

Accordingly, the legal concept of a company is a contract between two or more people who are each obligated to contribute to a financial project by providing his/her share of money or work to invest in that project and to share the profit or loss that may result from it.¹

Whereas, the nature of a Joint Venture does not go beyond being an agreement or a partnership contract between two or more companies that work under one management, to implement a specific project and/or more without any change in the nature of each of the comprising companies.

We would also like to point out that a Joint Venture is not a type of a merger as defined in the Companies Law, in which the legal personality of the merging company merges with the merged company, since a Joint Venture between two

¹ Article (582) of the Civil Law No. (43) for the Year 1978.



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companies and/or more for the purposes of implementing a specific project is in fact the other side of the concept of setting up a new commercial company not registered at the Companies Control Department; and which enjoys an independent legal personality once it is formed. Also, the existence of such type of companies allied with each other under one Joint Venture will result in the existence of financial liability both towards others and towards the Joint Venture itself; Which entails the existence of an independent financial liability to carry out the work agreed upon under the said partnership contract.

Second: Reasons for Forming a Joint Venture

From our point of view, we find that there are many reasons that lead companies to ally with each other; we shall mention below the most prominent of those reasons, as follows:

1. Seizing investment and economic opportunities; since most of the tenders that are being offered, require the formation of a Joint Venture.
2. The duration of a Joint Venture is short compared to the duration of a registered company, as the legal personality of the Joint Venture ends with the completion of the implementation of the project, that is in contrast to the liquidation of a company registered at the Companies Control Department, which requires extensive efforts

due to visits to official departments to obtain the required clearance letters for company liquidation.

3. To establish a company registered with the Companies Control Department, a number of legal requirements are needed for its incorporation to be considered valid. Including depositing of a certain share capital, the division of shares among the shareholders, the presence of a site (physical location) to conduct its business, the appointment of lawyers to register it and the payment of fees resulting from the incorporation work, and so on. Which prompts some companies to favour entering in a Joint Venture to reduce these expenses.

Third: Procedures to Register a Joint Venture

It is to be noted that the legal rule for establishing and registering any Jordanian company in the Hashemite Kingdom of Jordan is to follow the procedures contained in the provisions of the Companies Law in specific, in order for the formed company to be considered that it has legal personality.

Notwithstanding the above, on the one hand, the Jordanian law did not expressly and explicitly stipulate that the Joint Venture must be registered in general, and on the other hand, failure to adhere to the registration procedures stipulated in the Companies Law does not mean in any way that there is no actual company on the ground and that



it does not have legal personality and independent financial liability. Whereas article (15) of the Companies Law stipulates the following²:

4 *“Failure to comply with the registration procedures stipulated in articles (11), (13) and (14) of this law would not preclude the assertion of the actual existence of the company, or the assertion of the changes made to the benefit of third parties, or the assertion of the nullity of the company or change for the interest of third parties. No partner shall benefit from such non-compliance and each partner shall be jointly liable with the Company and the remaining partners before third parties for any damage resulting therefrom.”*

Further, article (583) of the Jordanian Civil Code stipulates the following:

“1. The company is considered a legal person as soon as it is formed.

2. Said personality shall not be invoked against third parties except after completing the registration and publication procedures established by law.

3. However, a third party may plead the existence of the said personality even though the aforementioned procedures have not been completed.”

Alternatively; In the event that any of the Jordanian legislations demand to abide by the registration of the Joint Venture in order to practice a specific activity, this must be adhered to for the purposes of obtaining the benefits and exemptions established under the issued legislation, and we mention, for example, but not limited to: The Regulation of Registering Enterprises in Aqaba Special Economic Zone and its amendments No. 13 for the Year 2001, mandates the registration of the Joint Venture arising from registered companies and from enterprises registered with the Aqaba Economic Zone Authority.

Forth: The Legal impact of Joint Ventures on the Jordanian legislation from our point of view

In conclusion, we shall review the most prominent effects of the Joint Venture in Jordanian legislation from our point of view, as follows:

1. Standardization of legal positions between the parties to the Joint Venture as the Jordanian legislation has stipulated that the concept of the unregistered company in the Civil Law is to be considered valid.

2. Permissibility of litigating the Joint Venture by third parties and/or against third parties; This is in

² This text and all text in italics in this Newsletter is an unofficial English translation of the original text in Arabic.



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light of third parties' acknowledgment of the existence of the Joint Venture and the validity of the actions conducted with others, in which the litigation in this case is achieved and is valid, and the Joint Venture may file lawsuits to claim any of the rights related to its performance of any of the actions it has undertaken.

3. The existence of a financial liability for the Joint Venture does not nullify the independence of the liability of the partners to the Joint Venture, as the Companies Law has indicated that failure to register a company in the Companies Control Department for a company that results out of a Joint Venture leads to each one of the partners to the Joint Venture being a joint partner in incurring any damage and / or claim.

We would also like to point out that any claims on the financial liability of the partners to the Joint Venture are not considered debts of the Joint Venture itself.

4. In light of the Joint Venture being considered an actual company, the realized profits and losses are distributed among the Joint Venture's parties in accordance with what is stipulated in the partnership contract.

5. The legal personality of the Joint Venture expires and terminates with the completion of the implementation of the project, unless the partnership contract stipulates otherwise.

6. The Joint Venture formed to engage in an illegal and disruptive act of public order shall not be considered valid, including but not limited to; drug dealing.



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We conclude from this Newsletter on the importance of the Joint Venture and the Joint Venture's great impact on keeping pace with economic growth in the Hashemite Kingdom of Jordan, as it supports efforts between the public and/or private sectors and leads to the exchange of experiences and knowledge among those sectors. That is what prompted us to write this Newsletter in order to simplify its provisions and share with our readers for their perusal.

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.

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 by sending an email to info@hammourilaw.com, titled "non-subscription" and/or "amending the contact details".

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 Mohammad Hammouri (1940-2022). Professor Hammouri was a renowned Jordanian attorney and 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, a distinguished academic and attorney and a former Minister of Industry, Trade and Supply. Dr. Tariq Hammouri is both an experienced attorney and an arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law and International Trade. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law. Dr. Hammouri is also an officially appointed member of the International Center for Settlement of Investment Disputes (ICSID) Panel of Arbitrators upon designation by the Government of the Hashemite Kingdom of Jordan, for the period of 2020 to 2026.

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 have 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 or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater to 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 to what has previously been stated, 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, Europe, the United Kingdom and the USA. Hammouri & Partners has earned regional and international acclaim by the most reputable legal directories. Chambers and Partners Global, International Financial Law Review (IFLR 1000) and the Legal 500 all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



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