

Newsletter
[43 Edition, April 2024]

Welcome to the forty-third edition of our newsletters. In this edition, we will present to our readers the provisions of the Jordanian General Amnesty Law No. 5/2024. The General Amnesty Law was issued by the Government of Jordan in accordance with constitutional procedures that were in response to royal directives. These royal directives stressed the importance of the draft Law accounting for public interest, safeguards of private and civil rights in accordance with the values of justice and the decree of law, provided that the Law does not contradict the requirements of national security and national peace. Due to the importance from a legal perspective of the impact that will have the enforcement of said law, we have decided to highlight the main provisions of the General Amnesty (General Pardon) Law in this edition.

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SECTION A: A GLIMPSE INTO JORDANIAN LEGISLATION

In this edition, we will present the provisions of the Jordanian General Amnesty Law No. 5/2024.

2 Introduction

In this edition, we look into the provisions of the Jordanian General Amnesty Law No. 5/2024 as follows:

In light of the issuance of the Royal Decree approving the Jordanian General Amnesty Law No. 5/2024, which consequently entailed its publication in the Official Gazette, the aforementioned law has been in force since its publication date of 8/4/2024, with its effects in force. The competent security and judicial bodies to implement the provisions of the said law have enforced them by releasing convicts, who have benefited from the general amnesty and by dropping criminal cases filed against persons

prosecuted for crimes that are included in the General Amnesty Law.

Given the impact of the general amnesty from a legal perspective and considering the statement made by the Jordanian Minister of Justice during a press conference that the General Amnesty Law will include the release of (7,355) inmates in correctional centers - (4688) of them were convicted for various acts of misdemeanor and (2667) were for drug-related misdemeanors - and explaining that the General Amnesty Law considers the requirements of national security and societal peace¹, we have decided in this edition to shed light on the provisions of the Jordanian General Amnesty Law No. 5/2024, as follows:

First: What is the General Amnesty

Before examining in detail the provisions of the Jordanian General Amnesty Law No. 5/2024, we

¹ This was published by the Alrai Newspaper on 24/03/2024 at the following link:

<https://alrai.com/article/10828630/%D9%85%D8%AD%D9%84%D9%8A%D8%A7%D8%AA/%D8%A7%D9%84%D8%B2%D9%8A%D8%A7%D8%AF%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D9%81%D9%88-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-%D8%B3%D9%8A%D8%B4%D9%85%D9%84->

<https://alrai.com/article/10828630/%D9%85%D8%AD%D9%84%D9%8A%D8%A7%D8%AA/%D8%A7%D9%84%D8%B2%D9%8A%D8%A7%D8%AF%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D9%81%D9%88-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-%D8%B3%D9%8A%D8%B4%D9%85%D9%84->



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consider it necessary to begin by clarifying what a general amnesty is from the perspective of the Jordanian legislator.

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From a Jordanian legislative perspective, a general amnesty is a general pardon that removes the criminal aspect from an act that is in itself a crime punishable by law. By doing so, the act becomes as if it had never been criminalized in the first place. On this basis, a general amnesty is considered one of the reasons that overturn criminal sentences. In the event that the sentence has been issued - whether final or not final - a general amnesty removes the criminal effects of the sentence, thereby overturning every original, related, or additional penalty; however, collected monetary fines and confiscated items are not returned.

The Jordanian Constitution, in its article 38, has specified the legal mechanism for issuing a general amnesty, that being by means of a special law. Consequently, this means that the general amnesty is issued by the legislative authority represented by the Parliament (house of representatives and the senate) and is approved by the King with the law becoming effective from the date of its publication in the Official Gazette.

The history of the Hashemite Kingdom of Jordan has witnessed the approval of a number of general amnesty laws on various occasions since the Kingdom was the Emirate of Transjordan and until the present day. The most recent of those was the recent approval of the Jordanian General Amnesty Law No. 5/2024, which came into effect on 8 April 2024, when the office of the Attorney General initiated procedures to implement its provisions.

Second: The Crimes That Qualify for a General Amnesty

By extrapolating from the provisions of article (2) of the Jordanian General Amnesty Law No. 5/2024, we find that the Jordanian legislator has included all criminal acts, misdemeanor crimes, infraction crimes, and criminal acts that occurred before the date of 19 March 2024 in the provisions of the General Amnesty Law, with the exception of the crimes that will be described in section (Three) below.

As a consequence of criminal acts being included in the general amnesty is that a criminal aspect is removed at its base and every criminal case and its penalties, whether an original penalty or a penalty related to any of those crimes, is overturned. The



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cases under the provisions of the Jordanian General Amnesty Law No. 5/2024 are also exempted from all imposed fines or those that are usually imposed in criminal acts, misdemeanor crimes and infractions or in any criminal proceeding.

It should be noted in this regard that the enforcement of the provisions of the Jordanian General Amnesty Law No. 5/2024 does not shield an individual from civil obligations nor from enforcing the judgements issued therein. Further it does not prevent goods from being confiscated, destroyed, or otherwise disposed of for non-commercial purposes in accordance with the provisions of relevant laws.

Third: The Crimes That Do Not Qualify for a General Amnesty

The Jordanian legislator, in article (3) of the Jordanian General Amnesty Law No. 5/2024, has excluded a number of criminal acts, whether in relation to the original perpetrator, partner, accomplice, or instigator, from the provisions of the Jordanian General Amnesty Law No. 5/2024 in addition to not including in its provisions the attempt

to commit any of those crimes. The excluded crimes can be summarized as follows:

1. Crimes against the internal and external security of the country. The Jordanian legislator has limited this category of crimes to those that are regulated under the provisions of articles (107) to (153 bis) of the Jordanian Penal Code No. 16/1960. By referring to the provisions of these articles, we find that the most prominent crimes that have been regulated are the crimes of conspiracy, treason, crimes against international law, contacting the enemy for illegal purposes, undermining the standing or the prestige of the state and national feeling, crimes of non-performance², felonies against the constitution, sedition, terrorism, crimes that undermine national unity or disturb the peace among the country's citizens, crimes that affect the country's financial standing and other crimes.

2. Villain and unlawful associations. This crime, according to the provisions of the Jordanian Penal Code, includes a group of criminal acts. Perhaps the most prominent of those crimes are crimes against

² As stipulated in article 133 of the Jordanian Criminal Code, these crimes are crimes of non-performance of contracts that

are concluded in times of war/potential war and relate to the country's security, the country's public interests or procurement for its citizens.



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public safety, such as sabotaging or destroying the assets of the Jordanian government in Jordan.

3. Crimes of professional misconduct, such as bribery, embezzlement, and exploitation of the job.

4. Crimes against a public official, such as resisting armed forces using violence and severity.

5. Crimes of setting fire to and destroying the official records of an authority, most notably destroying seals and removing papers and documents.

6. Crimes of forgery of country seals, official marks, and banknotes.

7. Crimes of criminal forgery, such as an employee committing a material forgery while performing their job, or an employee who: (a) prepares a document within his jurisdiction and creates confusion in its subject or circumstances (either by misusing a blank signature entrusted to him/her or by writing down contracts or statements other than those issued or dictated by the contracting parties) (b) and similar acts (c) as well as other crimes that fall under the category of criminal forgery.

8. Crimes of rape, sexual harassment, and criminal kidnapping.

9. Crimes of homicide.

10. Crimes of assault that cause death.

11. Crimes of firing firearms without justification leading to death or a permanent disability.

12. Crimes of causing death contrary to the provisions of article (343) of the Penal Code No. 16/1960 and its amendments and article (27) of the Traffic Law No. 49/2008 and its amendments, except for when this is accompanied by a waiver of personal rights or by the payment of the claimed or awarded amount, even if the judgment has attained finality.

13. Crimes of assault, such as striking a person on the face or neck using blades, scalpels, razors, or similar sharp tools and actions leading to cutting out or removing an organ, or severing a limb, or impairing it, or impairing any of the senses from functioning.

14. Crimes of arson, consisting of deliberately setting fire to buildings, factories, workshops, warehouses, or any inhabited or uninhabited structure located in a city or village, or to railway vehicles or passenger transport vehicles.

15. Crimes of damaging transportation routes and means, including acts of deliberate sabotage on public roads or bridges or public facilities or



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damaging them intentionally, obstructing railway tracks or moving machinery, or signs related to them, or placing obstacles to hinder their movement, using any means to cause collisions between trains or derailment, and other such actions.

16. Crimes of criminal theft, which are thefts occurring under circumstances specified by the Jordanian legislator in articles 400 to 405 (bis) of the Jordanian Penal Code No. 16/1960.

17. Crimes of fraudulent bankruptcy.

18. Crimes of blackmail and extortion.

19. Crimes of fraud.

20. Crimes related to the water infrastructure, such as conducting operations to dig for underground or for spring water resources or to limit them unless the intention is to dig a non-spring water well on a private property, excavating within distance closer than the border of these excavations from the banks of watercourses (rivers), their crossings, irrigation channels, drainage, and dewatering channels and all within a distance less than three meters in all cases and other actions deemed related to the water infrastructure as stated in the Jordanian Penal Code.

21. Crimes of espionage.

22. Crimes of abusing trust, and crimes of theft and embezzlement committed contrary to the provisions of articles 28 to 31 and articles 33, 34, and 59 of The Military Penal Code No. 58/2006.

23. Crimes committed contrary to the provisions of the Jordanian Economic Crimes Law No. 11/1993 and its amendments or any offense attributed to it.

24. Crimes committed contrary to the provisions of the Integrity and Anti-Corruption Law No. 13/2016 and its amendments.

25. Crimes committed contrary to the provisions of the Unlawful Gain Law No. 21/2014 and its amendments.

26. Crimes of practicing slavery as stipulated in article (5) of the Abolition of Slavery Law of 1929.

27. Crimes of human trafficking as stipulated in the Human Trafficking Prevention Law No. 9/2009 and its amendments.

28. Crimes of money laundering and financing terrorism as stipulated in the Anti-Money Laundering and Counter-Terrorism Financing Law No. 46/2007 and its amendments, and the Anti-Money Laundering and Counter-Terrorism Financing Law No. 20/2021.



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29. Crimes committed contrary to the provisions of the Anti-Terrorism Law No. 55/2006 and its amendments.

30. Crimes committed contrary to the provisions of the Electronic Crimes Law No. 27/2015 and its amendments and No. 17/2023, or in reference to those provisions.

31. Crimes stipulated in paragraphs (A) and (B) of article (11) of the Firearms and Ammunition Law No. 34/1952 and its amendments.

32. Crimes stipulated in article (12) of the Explosives Law No. 13/1953 and its amendments.

33. Crimes stipulated in paragraph (A) of article (30) of the Water Authority Law No. 18/1988 and its amendments.

34. Crimes stipulated in article (18) and paragraphs (A) and (B) of article (19) of the Environmental Protection Law No. 6/2017.

35. Crimes of drugs and psychotropic substances as stipulated in articles (7) and (8), and articles (10), (11), (12), (13), and article (14)/paragraph (B), articles (15) - (20), article (23) and articles (25) and (26) of the Narcotics and Psychotropic Substances Law No. 23/2016 and its amendments.

36. Crimes committed contrary to the provisions of the Competition Law No. 33/2004 and its amendments.

37. Fines imposed for violating the provisions of the Income Tax Law No. 34/2014 and its amendments, the General Sales Tax Law No. 6/1994 and its amendments and the Customs Law No. 20/1998.

Conclusion

Further to all that has been stated above, while the provisions of the general amnesty laws may align with the general frameworks and their ensuing effects; however, it is not necessary for the provisions of general amnesty laws to encompass the same crimes. Each law exempts a set of crimes that correspond to the circumstances surrounding its issuance and reinforce the exclusion of serious crimes against society in each general amnesty law. These include crimes of espionage, treason, terrorism, and other crimes threatening the country's standing and prestige.

Due to all those reasons, we have deemed it appropriate to review the contents of the provisions of the Jordanian General Amnesty



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Law No. 5/2024 in order to keep you updated on the latest legal provisions in force.

SECTION B: Hammouri & Partners' Iraq Office (Baghdad)

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In continuation of the approach of the Republic of Iraq in developing legislation to be in line with peer developed countries, the Republic has recently joined the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) of 1992.

It should be noted that the aforementioned agreement came as an extension of the Civil Liability Convention of 1992 relating to the liability of shipowners for oil pollution damages resulting from spillage from oil tankers. The International Oil Pollution Compensation Fund was established in order to provide compensation to the victims who did not receive full compensation under the Civil Liability Agreement when the state becomes a party to the Fund's agreement.

In an advanced context, a protocol to the Fund Agreement of 1992 was adopted, which is called 'the Supplementary Fund Protocol'. It provides

those affected with a new and additional level of compensation, noting that membership in this Fund is optional and not compulsory.

The Republic of Iraq's accession to the International Convention emanated from its desire to be part of the international structure that desires to adopt unified rules and procedures to determine issues related to liability for damages resulting from the transfer of oil pollution and to provide appropriate compensation in those cases.

We present below the decision issued by the President of the Republic, which includes the announcement of the Iraqi Republic's joining of the convention.

First - In Issue No. 4761 Dated 19/02/2024

In the name of the people

President of the Republic

Resolution No. (2)

Based on what was approved by the House of Representatives pursuant to the provisions of Clause (One/First) of Article (61) and Clauses (Two and Three/ Second and Third) of Article (73) of the Constitution.



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The President of the Republic decided on 29/01/2024 to issue the following law:

Law No. (2) for the year 2024

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The Republic of Iraq acceded to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) of 1992.

Article 1 - The Republic of Iraq acceded the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) of 1992, which entered into force on 30/5/1996.

Article 2: This law shall be implemented from the date of its publication in the Official Gazette.

Abdul Latif Jamal Rasheed

President of the Republic

Secondly - In Issue No. 4762 Dated 26/2/2024

Statement No. (1) for the year 2024

Pursuant to the provisions of Paragraph (1) of Resolution No. (815) issued by the (dissolved) Revolutionary Command on 20/06/1982, the following was decided:

1_ Nominating Ms. Wafa Mahdi Shariq / Senior Legal Consultant / original member of the Compensation Committee in accordance with the provisions of the amended Compulsory Car Accident Insurance Law No. (52) of 1980, in place of Mr. Firas Ahmed Saba, Assistant Legal Consultant.

2_ This statement will be effective from the date of its publication in the Official Gazette.

Tayf Sami Muhammad

Minister of Finance

Third: On another level, the Republic of Iraq has issued its approval to issue Regulation No. (1) for the year (2024), which is the amending Regulation for the practice of the auditing profession No. (3) of the year (1999), issued in accordance with the provisions of the Companies Law.

The aforementioned regulation is concerned with clarifying the conditions and principles that must



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be met by the natural person to whom the title (auditor) will apply. It also stipulates the formation of a council concerned with setting special controls that regulate the type and volume of work that the auditor may accept and many matters related to the mechanism of practicing the profession. The council is called (the Accounting Oversight and Auditing Profession Council).

The following is the decision of the Council of Ministers regarding the above:

Council of Ministers

Decision No. (24129) for the year 2024

The Council of Ministers decided in its sixth regular session, held on 7/2/2024, the following:

Approval of issuance of Regulation 1 of 2024, being the fourth regulation amending the Regulation for Practising the Profession of Auditing and Monitoring 3 of 1999, which was audited by the State Council, based on the provisions of Clause (One/First) of Article (220) of the Companies Law 21 of 1997 and Clause (Three/Third) of Article (80) of the Constitution.

Dr. Hameed Naeem Al-Ghazi

Secretary General of the Cabinet of Ministers

2/27/2024

SECTION C: Hammouri & Partners' Kurdistan Office (Erbil)

In a good gesture from the Republic of Iraq, and based on its keenness to reduce the tax burden on individuals and its desire to encourage economically the various segments of society, enhance their economic activity, and make room for them to practise their commercial businesses without any impediment that would burden them, the Kurdistan Region Cabinet of Ministers issued a set of decisions (243, 244, 245, 246, 247, 248, and 249) on the 27 March 2024, after taking into account the financial and economic situation in Kurdistan. These decisions provided an exemption from all fines and interest incurred by taxpayers with the Tax Department for previous years. This exemption is valid for a period of (90) working days from the date of its implementation.

This exemption includes:



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1. Exempting all taxpayers (whether a natural or a legal person) from paying taxes, from all fines and interest accrued in previous years.
2. This exemption includes all income and property tax debtors.
3. This exemption includes all taxpayers, whose taxes are paid in installments.

However, this exemption does not apply to any individual against whom a judicial decision has been issued.

Noting that, after a period of 90 working days, the Tax Department in the Kurdistan Region will take all legal measures against the debtors to the Tax Department in the event of non-compliance with paying their taxes.

This exemption came into force on the 14 April 2024 pursuant to the formal letter No. 2957 issued by the General Directorate of State Taxes and Real Estate – General Directorate of Legal Affairs and Technical Directorate.

SECTION D: START UPS & SMES

If you are planning to start your business or you are looking to get support to your business at an early-stage, then you may have probably come

across and learned about ‘incubators’ and ‘accelerators’ as they are considered important pillars in supporting the startup ecosystem at a national and international level. And while there are some slight differences in the way they provide their services to entrepreneurs/startups, yet they both aim to strengthen the foundation of startups to enable them to develop their services and/or products to efficaciously launch them to market. In this edition of Hammouri & Partners Newsletter, we will explain the differences between incubators and accelerators along with the main functions and services provided by each of them.

Incubators:

Incubators are organizations experienced in business and technology and are established to nurture entrepreneurs/startups at an early-stage, providing them with the necessary services to develop their ideas, and therefore, outline their road map to gaining capital from angel investors, government organizations, economic-development coalitions, venture capitalists and other potential investors. Incubators typically provide startups with work space, mentorship, advisory support and networking opportunities. Moreover, incubators play a pivotal role in the



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success and growth of startups by granting them with well-needed guidance on fundraising, market research and business strategies.

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Accelerators:

Accelerators are programs prepared to assist early stage entrepreneurs/startups by offering them with the necessary mentorship, resources and networking, and therefore, help accelerate their growth. The said programs play an important role in assisting startups in their growth process and in helping them improve their chances of success. Accordingly, by joining an accelerator, entrepreneurs/startups can obtain the necessary skills, knowledge and connections that startups need to advance their business.

To conclude, as discussed above, both incubators and accelerators support entrepreneurs/startups by allowing them to gain the core skills needed in order to turn innovative ideas into successful ventures. Moreover, they assist startups/entrepreneurs overcome the challenges that they may face when they start a business by providing effective help and guidance. Whereby incubators commonly offer mentorship, work space and networking, whereas, accelerators, provide more comprehensive programs that may offer funding, introduction to investors and specialised training.



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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.

- 13 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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“Iraq joining the International Agreement Regarding the Establishment of an International Fund to Compensate for Oil Pollution Damage for (1992)”

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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 the late Professor Mohammad Hammouri. 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 more than 30 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. It should be noted that Hammouri & Partners are in the midst of establishing a new office for the firm in the city of Baghdad in the Republic of Iraq and a branch in the city of Erbil in Kurdistan Region to provide legal services through it in a direct manner. The Iraq office is operational since September 2023.

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 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 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, Securities 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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