

Law No. 15 of 2012 (Jordan)
Issued on 16/06/2012
CONSTITUTIONAL COURT LAW

Article one

This law shall be called the Constitutional Court Law of 2012 and shall enter into force after one hundred and twenty days from its publication in the Official Gazette.

Article 2

Where the following words and phrases appear in this law, they shall have the meanings assigned to them below, unless otherwise indicated by the context:

The Court: The Constitutional Court

The President: The President of the Court

Member: The President or any member of the Court

General Board: General Board of the Court comprising all its members

Secretary-General: Secretary-General of the Court

Article 3

A - A constitutional court shall be established in the Kingdom, it shall be based in the capital and it shall be considered an independent and separate judicial body.

B -The Court shall have a legal personality and enjoy financial and administrative independence. In such capacity, it may own movable and immovable assets and make all such legal dispositions as are required to perform its functions. The Civil Attorney-General shall deputise for it in judicial proceedings.

Article 4

The Court shall have the following responsibilities:

A - To oversight the constitutionality of the applicable laws and regulations.

B - To interpret the provisions of the Constitution.

Article 5

A -The King shall appoint the President and members for a non-renewable period of six years, subject to the following:-

1 - On entry into force of the provisions of this law, he shall appoint nine members, including the President, to the Court.

2 - He shall appoint three members to the Court every two years from the date of appointment of the members provided for in section 1 of this paragraph.

B - In the President's absence, the longest serving member in the Court shall deputise for him and, where there is equal seniority, the older member shall deputise.

C - A member may not be appointed, seconded or assigned to work for any entity during the course of his membership at the Court.

Article 6

A -Those appointed as members to the Court shall:

- 1 - be Jordanian and does not hold the nationality of another country.
 - 2 - have reached fifty years of age.
 - 3 - be in any of the following categories:
 1. They shall have served as judges in the Court of Cassation and the High Court of Justice.
 2. They shall be professors of law in universities who hold the rank of professor.
 3. They shall be lawyers who have spent a period of not less than fifteen years in the practice of law.
- B - One of the Court members shall be a specialist to whom the conditions of membership of the Senate apply, provided he has reached the age of fifty.

Article 7

The President and members of the Court shall, prior to assuming their functions take - before the King an oath the text of which is:

“I swear by Almighty God that I shall be loyal to the King and the country, to uphold the Constitution, to serve the Nation, and to honestly perform the duties entrusted to me”.

Article 8

A- Members shall work full-time for the Court and may not be employed in the public or private sector or occupy any position in either of them or carry on any commercial business or activity. In addition, they may not be members of the board of directors or board of managers of any company or chairmen or members of a board of directors or board of trustees of any public or private establishment or engage in any business on behalf of any entity of whatever capacity or belong to any party.

B - Members shall be subject to the provisions of the Financial Disclosure Law.

Article 9

A - The following entities – for limitation - shall have the right to directly challenge at the Constitutional Court the constitutionality of the applicable laws and regulations:

- 1 - The Senate.
- 2 - The House of Representatives.
- 3 - The Council of Ministers.

B - If one of the bodies specified in paragraph A of this article decides to challenge the constitutionality of a law or regulation, the challenge shall be submitted to the Court by an application signed by the head of the challenging body, in which the following shall be stated:-

- 1 - The name and number of the challenged law or regulation and the scope of the challenge, clearly setting out whether it concerns the entire law or regulation or one or more articles.
- 2 - The grounds for why the law or regulation is in breach of the Constitution.

Article 10

A - The President shall send a copy of the challenge submitted to him under the provisions of Article 9 of this law to the heads of the other two bodies referred to in paragraph A of Article 9 and either of them may submit its response to the Court within ten days from the date it is received.

B - The Court shall decide on the challenge within a maximum of one hundred and twenty days from the date it reaches it.

Article 11

A - Any of the parties to a case pending before the courts, in their various types and instances, may put forward the defence of unconstitutionality of any law or regulation that is applicable to the substance of the case.

B - The defence of unconstitutionality shall be put before the court that is considering the case by means of a memorandum, in which the challenger shall state the name and number of the law or regulation in respect of which the defence of unconstitutionality has been raised and the scope of the defence in a clear and specific

manner with support for its claim that such law or regulation is applicable to the substance of the case and the grounds for why it is in breach of the Constitution. Any other party to the case may submit its response within such period as that court shall determine, provided it does not exceed fifteen days from the date the memorandum of defence is submitted for unconstitutionality.

C - 1 - Subject to the provisions of paragraph D of this article, if the court considering the case finds that the law or regulation in respect of which the defence of unconstitutionality has been raised is applicable to the substance of the case and that the defence of unconstitutionality is substantive, it shall suspend consideration of the case and refer the defence to the Court of Cassation for the purposes of deciding on the issue of its referral to the Court. A decision of non-referral by the court considering the case shall be subject to appeal along with the substance of the case.

2 - Any party to the case may submit a memorandum to the Court of Cassation concerning the issue of referral to the Court within fifteen days from the date the decision of the court hearing the case to refer the defence to the Court of Cassation is issued.

3 - For the purposes of deciding on the issue of referral, the Court of Cassation shall convene with a panel of at least three members and it shall issue its decision within thirty days from the date the case reaches it. If it approves the referral, it shall notify the parties to the case to that effect.

D - If the defence of unconstitutionality is put before the Court of Cassation or the Higher Court of Justice, it shall be directly responsible for deciding on referral, in accordance with the provisions of this article.

Article 12

A - 1 - Every party to the case may submit a memorandum to the Court setting out clearly and specifically the law or regulation in respect of which the defence of unconstitutionality has been raised, the scope of such defence and the grounds for why it is in breach of the Constitution within fifteen days from the date it is notified of the decision to refer to it.

2 - Every party to the case that has submitted a memorandum in accordance with the provisions of section 1 of this paragraph may submit a response to the memorandums submitted by the other parties to the case within a maximum of thirty days from the date it is notified of the referral decision. The Court may decide that it is satisfied with the memorandums that have been submitted in accordance with the provisions of section 1 of this paragraph.

3- The memorandums referred to in sections 1 and 2 of this paragraph may only be submitted by a master advocate who has practised in the legal profession for five years or who has worked in a judicial post for a similar period before practising in the legal profession.

B - The President shall send a copy of each referral decision received by the Court in accordance with the provisions of Article 11 of this law to each of the following:-

1- The Speaker of the Senate and the Speaker of the House of Representatives, each of whom may submit his response to the challenge to the Court within ten days from the date he receives it.

2- The Prime Minister, who shall submit his response to the challenge to the Court within the period specified in section 1 of this paragraph.

C - The Court shall decide on the challenge referred to it by the courts within a period of not more than one hundred and twenty days from the date the referral decision reaches it.

Article 13

The Court may seek any details or information it deems necessary to decide on the challenge put to it and in such manner as it shall consider appropriate.

Article 14

The Court shall issue its judgments substantiated in respect of the challenges put before it precisely in accordance with the provisions of this law or at a public hearing, as it sees fit.

Article 15

A - The Court shall issue its judgment on a challenge put to it in the name of the King and the judgment issued by it shall be final and binding on all authorities and the people.

B- Subject to the provisions of paragraph C of this article, a judgment issued by the Court shall be enforceable with immediate effect, unless the judgment specifies another date for its enforceability. If it rules that a law or regulation in force is unconstitutional, the law or regulation shall be deemed void from the date the judgment is issued. If the judgment specifies another date for its enforceability, the law or regulation shall be deemed void from the date specified in the judgment.

C- If the Court rules that a provision that imposes a penalty is unconstitutional, judgments that have ruled for conviction on the basis of such provision shall be suspended and their penal effects shall cease.

D- If the Court rules that more than one provision in a law or regulation are unconstitutional, the Court may, in terms of the date its judgment becomes enforceable, differentiate between one provision and another as it sees fit.

Article 16

A- The Court shall send copies of the judgments issued by it to each of the following as soon as they are issued:-

- 1- The heads of the bodies specified in paragraph A, Article 9 of this law.
- 2- The President of the Judicial Council.

B- The Court's judgments shall be published in the Official Gazette within fifteen days from the date they are issued.

Article 17

The Court shall have the right to interpret the provisions of the Constitution, if asked to do so by a decision of the Council of Ministers or by a majority decision taken by one of the National Assemblies and its decision shall be effective following its publication in the Official Gazette.

Article 18

The Court's deliberations shall be confidential.

Article 19

The Court shall, when considering a challenge or request for interpretation put to it, convene with a panel of at least nine members. If one or more members are absent with a legitimate excuse or in one of the instances of recusal, it shall convene in the presence of seven of its members, provided the President or his deputy is among them and it shall issue its judgments and decisions by a majority of five members. In the event of a tie, the President or his deputy shall have the casting vote.

Article 20

A - The President shall receive such salary and increments as are prescribed for the President of the Court of Cassation in accordance with the provisions of the legislation in force.

B - The other members shall receive such salary and increments as are prescribed for Vice-Presidents of the Court of Cassation in accordance with the provisions of the legislation in force.

C - Notwithstanding the provision of any retirement law, a member may combine any pension he receives with the salary and increments prescribed for him in accordance with the provisions of this article.

Article 21

Notwithstanding the provision of paragraph A, Article 5 of this law, a member's service shall cease:

A - On death.

B - On resignation, which shall become effective following its acceptance by Royal Decree.

C - By Royal Decree on the recommendation of six other members in any of the following instances:-

- 1 - Forfeiture of any of the conditions of membership stipulated in this law.

- 2 - The General Board's granting of leave to prosecute the member in accordance with the provisions of paragraph B, Article 23 of this law, unless the offence subject to prosecution is an unintentional misdemeanour or infraction.
- 3 - Ill health that prevents him doing his job.
- 4 - Loss of civil capacity.

Article 22

If a member's membership at the Court ceases or is terminated, a replacement member shall be appointed for him to complete the remaining term of his membership where the General Board has less than nine members.

Article 23

A- A member shall not be prosecuted in respect of any criminal complaint during the period of his membership at the Court or for any criminal complaint relating to the duties and activities entrusted to him in accordance with the provisions of the Constitution and this law or because of or arising therefrom, except with the authorisation of the General Board.

B- The General Board, after hearing the statements of the complainant and the defendant member and having examined any evidence, may decide to drop the complaint or grant leave to prosecute the member in accordance with the provisions of the legislation in force.

C- In cases of flagrante delicto, the member may be arrested or detained, provided the President is notified immediately to that effect. The General Board shall issue its decision in accordance with the provisions of paragraph B of this article within a maximum period of twenty four hours from the date of the member's arrest or detention.

D- If the General Board decides to drop the complaint, the member may not be prosecuted in respect of that complaint after his membership at the Court comes to an end.

Article 24

Any offence committed against a member during the course of carrying out his duty or such activity as he undertakes as a result thereof shall be considered tantamount to an offence against a judge.

Article 25

The General Board shall have the following duties and responsibilities:

A - To agree the annual report on the Court's activity and to submit it to the King.

B - To approve contracts and agreements to which the Court is a party.

C - To draw up the necessary directives for regulating the activity at the Court and the procedures for deciding on challenges, defences and requests for interpretation submitted to it, such that it does not conflict with the provisions of the Constitution and this law.

D - To draw up special directives and rules of behaviour by which a member or anyone working at the Court shall abide, including instances of recusal from considering any challenge or defence or request for interpretation determined in accordance with the provisions of the Constitution and this law.

E - To propose the requisite draft legislation for the Court's operation.

F - Any duties or responsibilities provided for in this law and the regulations and directives issued in accordance therewith.

Article 26

A- The General Board shall meet at the invitation of the President or his deputy, in the event of his absence, where there is a need to do so. Its meeting shall be legal where two thirds of its members are present, provided the President or his deputy is among them.

B - The General Board shall take its decisions by a majority of two thirds of the votes of the members present.

Article 27

A - The President shall have the following duties and responsibilities:

- 1 - To oversee implementation of the General Board's decisions.
- 2 - To supervise the Court's executive apparatus and to follow up progress therein.
- 3 - To represent the Court before official and private entities.
- 4 - Any other duties with which the General Board shall task him.

B - The President may delegate any of his responsibilities as prescribed in paragraph A of this article and the regulations and directives issued in accordance with this law to any of the members or the Secretary-General, provided such delegation is in writing and specific.

Article 28

A Secretary-General shall be appointed to the Court by a decision of the Council of Ministers and his services shall be terminated by the same method, the appointment decision being by Royal Decree.

Article 29

A - The Secretary-General shall have the following duties and responsibilities:

- 1 - To implement the administrative and financial decisions of the General Board.
- 2 - To sign contracts and agreements approved by the General Board.
- 3 - To manage the Court's administrative and financial apparatus in accordance with the regulations and directives issued to that end.
- 4 - To draw up the organisational structure of the Court's administrative apparatus, a schedule of positions therein and their job descriptions.
- 5 - To draw up the Court's draft annual budget.
- 6 - To compile the annual report on the Court's activities.
- 7 - Any other responsibilities assigned to him under the provisions of this law and the regulations and directives issued in accordance therewith.

B - The Secretary-General may, with the President's approval, delegate any of his responsibilities as prescribed in his law and the regulations and directives issued in accordance therewith to any official at the Court, provided such delegation is in writing and specific.

Article 30

The Court shall have an administrative apparatus that shall perform the permanent functions at the Court and employees shall be employed and appointed thereto under the provisions of the Civil Service Regulations.

Article 31

The Court may set up a technical office comprising a number of legal personnel and shall determine its duties in accordance with such directives as it shall issue to that end.

Article 32

The Court shall have an independent budget that shall be ratified by the General Board and which shall be sent to the Prime Minister for incorporation into the draft Government Units Budgets Law.

Article 33

The Court shall enjoy the same exemptions and facilities as government ministries and departments.

Article 34

The Court's accounts shall be subject to the Audit Bureau's control.

Article 35

The General Board shall issue directives for the purposes of implementing the provisions of this law and the regulations issued in accordance therewith, which shall be effective from the date they are published in the Official Gazette.

Article 36

The Council of Ministers shall issue the following regulations:

A - Regulations for requirements, works and financial affairs at the Court.

B - Regulation on fees for invoking the defence of unconstitutionality submitted under the provisions of this law by a party to a case pending before the courts.

Article 37

The Prime Minister and Ministers are charged with implementing the provisions of this law.

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