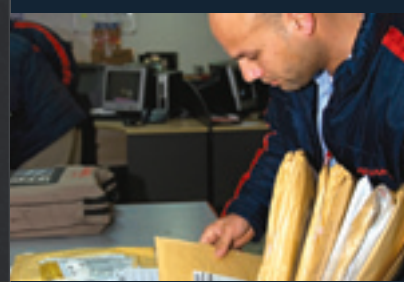


Legal Framework

Switching sectors

Healthy competition





Jordan began a privatisation programme in the 1990s

Switching sectors

Laws delineate privatisation procedures

Jordan embarked on a privatisation process in the 1990s. In the late 1990s Jordan passed the Privatisation Law No. 25 of 2000 (the Law), which defines privatisation as an economic policy. The goal of the law is to increase the private sector's role in economic activity including public sector projects that, by their nature, must be managed on a commercial basis. To date, many sectors have been subject to privatisation including the telecommunications, utilities (water and electricity), aviation, maritime and mining sectors.

According to the Law, the purposes of privatisation include (i) increasing the efficiency, productivity and competitiveness of economic projects; (ii) encouraging local, Arab and international investments by providing an attractive investment climate; (iii) incentivising private sector savings towards long-term investments to strengthen local capital and the national economy; (iv) alleviating the treasury's financial burden by suspending its obligation to provide grants and loans to poorly run projects; and (v) managing economic projects with modern methods for the purpose of finding stable markets and opening new ones through its ability to compete in global markets.

The Law sets forth the different ways that public organisations and projects owned by the public sector can be privatised and restructured: (i) transferring ownership of the organisation or project from the public sector to the private by converting the project or organisation into a company; (ii) selling all or part of the government's shares in companies in which it invests; (iii) transferring management of a project from the public sector to the private sector pursuant to an operations and management agreement; (iv) adopting any of the following structures: 1) the private sector builds and operates the project for a specific period before transferring it to the public sector; 2) the private sector builds the project, transfers its ownership to the public sector and keeps the right to operate it for a specific period; 3) the private sector builds, owns and operates the project; 4) the private sector builds, owns and

operates the project for a specific period then transfers ownership of the project to the public sector; 5) the private sector is granted the right to build a project and make use of it on an exclusive basis pursuant to a licence or other agreement entered into with the government; and 6) any other method decided by the Council of Ministers. When it comes to the specific procedures that the government must take to carry out a privatisation project (e.g. whether to tender and how), the Law is flexible and only sets out the major principles that must be adhered to when a privatisation project is undertaken. The Law requires that the assets and liabilities of any public organisation or project to be privatised must be valued using more than one valuation method in accordance with common accounting principles. In all cases, any privatisation project must be approved by the Council of Ministers.

The Law established the Executive Privatisation Commission (EPC), an independent commission responsible for studying and coordinating privatisation projects and giving its recommendation thereon; the EPC is also responsible for monitoring the completion of privatisation projects after their approval by the Council of Ministers. The Law also established the Privatisation Fund, to which all privatisation proceeds are forwarded. The Law states that privatisation proceeds must be used for any of the following purposes: (i) repaying government debt; (ii) buying back government debt at a discount; (iii) investment in financial assets; (iv) financing economic activity and new investments in infrastructure projects, but only if such projects are listed in the government's budget; (v) training and rehabilitation of workers employed by the privatised organisations and settling any financial rights they have towards such organisations; and (vi) buying years of service for employees of privatised organisations who will become subject to the social security law. The EPC is now focused on public-private partnerships (PPPs). The Law already allows for privatisation through PPPs as stated in point iv of the privatisation methods listed above.



An LLC must be composed of at least two shareholders

Healthy competition

An overview of the kingdom's corporate laws

The Companies Law No. 22 of 1997 and its amendments allows for the registration of various types of companies. The following is a short summary of the most common ones:

LLC: A Limited Liability Company (LLC) must be composed of at least two shareholders (approval can be sought for a sole shareholder LLC) whose liabilities are limited to their shareholding in the LLC [same applies for a private shareholding company (PrSC)]. The share capital of an LLC must be at least JD30,000 (\$42,600) comprised of 30,000 shares of JD1 (\$1.42) each. However, the Investment Law requires a minimum amount of JD50,000 (\$71,000) for any foreign investment in Jordan (same applies for a PrSC), except for investments in public shareholding companies. Although an LLC cannot list or trade its shares publicly, it can issue bonds.

The paid-up capital of an LLC on registration must be at least 50% of its total share capital, and the remaining 50% must be paid within two years of registration. However, it must be noted that the foreign investor must pay at least JD50,000 (\$71,000) upon the registration of the LLC. The LLC may be managed either by a single managing director or by a board of directors consisting of two to seven members.

PRSC: The share capital of a PrSC is equivalent to the total nominal value of all of its shares and shall be stated in Jordanian dinars.

The prescribed share capital of a PrSC shall be no less than JD50,000 (\$71,000) that must be fully paid upon registration. A PrSC, pursuant to its memorandum of association, may issue various types and classes of shares that differ in nominal value, voting rights, profit and loss distribution among shareholders among other things. The PrSC must be managed by a board of directors, and the number of the members of the board should be specified in the articles and memorandum of association. Also, 75% shareholder approval is needed for decisions to, among other things, merge, dissolve, sell all the

assets or increase or decrease the share capital (same applies for an LLC).

PSC: A public shareholding company (PSC) must be composed of at least two founders who subscribe for shares that can be listed on a stock exchange (approval can be sought for establishing a PSC by one founder). The founders cannot dispose of their shares until two years have passed following the registration of the PSC. Shareholders' liabilities are limited to their shareholding in the PSC. The authorised share capital of the PSC must not be less than 500,000 shares with JD1 (\$1.42) nominal value and must be stated in JD. The prescribed share capital of a PSC shall not be less than JD100,000 (\$142,000) or 20% of the authorised capital, whichever is greater, that must be fully paid upon registration. The remaining authorised capital must be fully subscribed within three years of registration. A PSC may issue the unsubscribed for shares at prices above or below the nominal value. Members of the board of directors for a PSC must be shareholders therein.

BRANCH OFFICE: A foreign company that is incorporated and has its headquarters outside Jordan can operate in Jordan only after registering a branch office and such registration will either be temporary, for the duration of a contract that the company was awarded (the registration may be extended if other contracts are later awarded), or permanent, pursuant to a licence from the competent official authorities. The company registering a branch office must appoint a person resident in Jordan who need not be a Jordanian national, as a representative to carry out its business and accept service on its behalf.

REGIONAL OFFICE: A foreign company that registers a regional office cannot operate in Jordan. For example, the regional office can collect information generally concerning business possibilities in Jordan or for a particular project but cannot sign any contract or offer regarding such a project or opportunity. The regional office enjoys several exemptions

and advantages such as the exemption from any local taxes, except sales tax, its non-Jordanian employees are exempted from income and social services taxes, and it can import its office furniture free from Customs duties. The regional office must also appoint a resident representative, and at least half its employees must be Jordanian citizens.

SECURITIES LAW: The Securities Temporary Law No. 76 of 2002, originally enacted in 1997, provides for the establishment of an independent regulatory agency, the Securities Commission. It also provides for the establishment of an independent and private sector-run stock exchange called the Amman Stock Exchange and a depository centre called the Securities Depository Centre. The Securities Law provides for international standard regulation of the securities market including substantial disclosure requirements, both for initial public offerings and continuous disclosure, prohibitions on insider trading and regulation of tender offers.

The Securities Commission has the authority and power to regulate the Amman Stock Exchange, the Securities Depository Centre, brokers and other market participants. The Securities Law provides for the regulation of mutual funds and sets down the basic legal structure for their establishment. Recently the securities commission issued instructions regulating margin trading. The provisions of the Securities Law are all aimed at ensuring transparency and availability of information in the securities market. It lays down serious civil and criminal penalties for the violation of its provisions.

Pursuant to instructions issued by the Securities Commission, companies and individuals cannot provide financial services in Jordan without being licensed by the Commission.

Licensing requirements for companies wishing to provide, inter alia, investment management, brokerage, financial consulting and underwriting services include, among other things, minimum capital and bank guarantee requirements. Regulations issued to date by the commission include regulations governing tender offers, subscription rights trading, treasury shares, margin trading; issuance and registration of securities, disclosure regulations and collective investment schemes regulations.

ENVIRONMENTAL LAW: The Protection of Environment Law No. 52 of 2006 (the Environmental Law) tackles extensive environment-related issues such as noise pollution, costal pollution, waste management, air pollution, articles and memorandum of association, and obligations of corporate bodies in relation to their effect on the environment.

The Environmental Law designates the Ministry of Environment as the authority to ensure compliance with environmental protection provisions. The Ministry can issue warnings to entities engaging in activities that negatively impact the environment and request that they rectify the relevant violation. Non-compliance may result in referral to the courts. It may also order the closure of any such entity.



The maximum penalty for polluting regional waters is \$35,500 and a prison sentence of one year

MARINE POLLUTION: The Environmental Law prohibits the dumping of any polluting or harmful substances into the coastal environment, within the boundaries of areas that have been specified by the Minister, in the regional waters of the kingdom and on the coastal areas. Furthermore, penalties in the form of fines and imprisonment are imposed on persons and/or entities that harvest, trade, remove or damage corals and seashells. The maximum penalty for any such violation is a fine of JD25,000 (\$35,500) and a prison sentence of one year.

HAZARDOUS SUBSTANCES: Importing hazardous waste into the kingdom is prohibited. Persons/entities found in violation of such provisions are liable to return any such waste to their country of origin, at their own expense and may be liable to a penalty in the form of a fine or imprisonment. The maximum penalty for such a violation is a 15-year prison sentence with a limitless fine starting at JD20,000 (\$28,400). The Environmental Law prohibits the dumping of any environmentally damaging substances into the water resources, whether liquid, gaseous, radioactive or thermal in nature. Storage of such substances in places other than those designated by the Minister is also prohibited. Penalties are imposed on persons/entities in violation of these provisions. The maximum penalty for any such violation is a fine of JD50,000 (\$71,000) and a prison sentence of two years.

CORPORATE OBLIGATIONS: Corporate bodies engaging in activities that negatively impact the environment are obliged to prepare an Environmental Impact Assessment (EIA) for each project intended to be undertaken. The EIA must be submitted to the Ministry for approval. The Minister may also request that a company/entity prepare an EIA if the former considers such a report necessary for safeguarding the environment.

The Environmental Law also mandates that the owners of factories, vehicles, workshops or other

entities engaging in activities with a negative impact on the environment install adequate equipment to prevent or minimise the emissions of pollutants, or adopt necessary procedures to minimise or prevent the emission of such pollutants. Persons/entities in violation of such provisions, who have failed to rectify the violation within the time period specified by the Minister, may be referred to court. The court has the discretion to impose a maximum prison sentence of one month and a fine of JD1000 (\$1420).

REGULATIONS AND INSTRUCTIONS: The Environmental Law affords the Council of Ministers with the power of issuing various regulations and instructions in order to adequately implement its provisions. EIA Regulation No. 37 of 2005 has been passed, which lists various activities requiring an EIA before operations may commence.

The EIA aims to evaluate the environmental, economic and social impact of a project as a whole. Moreover, the EIA is a facilitator in determining the available courses of action to minimise the negative impact of a project on the environment. The EIA is submitted to a technical committee, composed of members from various ministries, which evaluate the EIA, and submit their decision to the Minister for his approval. Once approval has been granted, the project activity may proceed.

Some of the projects listed by the regulation as requiring an EIA include: (a) crude oil recycling projects; (b) energy generating projects; (c) steel manufacturing projects; (d) road and railway construction projects; (e) waste recycling projects; (f) port and harbour constructions projects; and (g) covering sea water to create land for industrial or leisure purposes.

The Selection of Development Areas Instructions of 2007 is one of the most recently effected pieces of legislation pursuant to the Environmental Law. A development area is defined as an area where development activities are undertaken. Development activities include all farming, commercial, industrial, mining and housing projects that have an impact on or relate to the environment. Some of the instructions' most notable provisions are the following:

a) Any entity that wishes to construct a development area must submit an application to the Central Licensing Committee, which, inter alia, sets out the location of the proposed development area, the details of the materials to be used in the activity, details of any waste that may be produced and the steps that will be taken to treat such waste;

b) Certain requirements apply to the location of specific construction site activities. These include: 1) the requirement that such sites maintain a specified distance from public parks, water resources and woodland areas; 2) a bank guarantee must be submitted to the Natural Resources Authority to provide evidence of the entity's intention to rehabilitate the land after construction is completed; and

c) Restrictions apply in relation to the location of potash manufacturing sites, energy generation sites,

phosphate manufacturing sites and petroleum refineries as well. These sites must maintain a specified distance from certain designated areas.

Based on the above, the Central Licensing Committee evaluates the proposed location and the documentation submitted, and it notifies the project owner of its approval or rejection of the same.

CIVIL AVIATION LAW: The Civil Aviation Law No. 41 of 2007 has only recently been enacted and came into effect on July 31, 2007, repealing the previous Civil Aviation Law No. 50 of 1985. Air aviation and all matters related thereto, including the licensing of private investment, commercial air transport, aircraft operation matters (including organisation and registration matters), ownership of aircraft and rights attached thereto are regulated by the law. The law established the Civil Aviation Regulatory Commission (CARC), a financially and administratively independent regulatory body responsible for, among other things, regulating civil aviation matters, concluding contracts with investors and licensing operators in the civil aviation sector within Jordan.

Airlines operating out of Jordan are required under the law to obtain an air-operating certificate, a certificate of airworthiness and registration for each aircraft in their fleet and a valid economic operating licence. Airlines operating within Jordan are also subject to regulation under the Jordanian Civil Aviation Regulations (covering operational and technical matters) and the Jordanian Civil Aviation Economic Regulations (covering matters such as airport regulation, chartering regulations, operating licences and consumer protection).

Each aircraft in an airline's fleet must be registered either with the CARC or another recognised foreign civil aviation regulatory authority if it is to operate within Jordanian airspace. The CARC maintains an aircraft register (the National Register), which contains information relating to aircraft ownership, including leases and security interests.

To register an aircraft with the CARC, the law requires that:

- the aircraft is owned, leased for sale or leased for a period of no less than one year to a Jordanian person (whether natural or juristic) or is owned by a non-Jordanian person legally residing in Jordan;
- the aircraft is not registered in any other country's register or in an international register; and
- the aircraft holds a valid certificate of airworthiness.

An aircraft registered with the CARC enjoys Jordanian nationality. In addition, the law provides that an aircraft registered in the National Register may not be disposed of in favour of a non-Jordanian craft except with the approval of the CARC and by recording the disposal in the National Register.

The Civil Aviation Fees Regulation No. 45 of 2007 deals with the different fees applicable to, among other things, aircraft registration and operation. For instance, pursuant to the regulation, the fees for registering an aircraft in Jordan is JD1000 (\$1420)

plus JD50 (\$71) per tonne of the maximum takeoff weight of the aircraft. The fees for the issuance or re-issuance of the airworthiness certificate is JD3000 (\$4260) plus JD100 (\$142) per tonne of the maximum takeoff weight of the aircraft.

Jordanian law recognises the concept of a lease over an aircraft. All issues related to leases over an aircraft are governed by the law. The register for leases is the same as the aircraft registered maintained by the CARC. Other than the consent of the CARC and the filing of the lease with the CARC, there are no filings or registrations necessary or desirable for the registration of the lease.

Under Jordanian law, parties to an agreement may agree on the law to govern the respective agreement. Therefore, assuming the lease to be valid and binding according to its governing law (e.g. English law), the lease will be upheld in any action in Jordan, subject only to a limited exception relating to public policy matters. Jordanian law, for example, does not recognise self-help remedies that may be granted to the lessor pursuant to the lease.

There is no form adopted by the CARC for the purposes of registering a lease. The only condition that the laws set is that the lease must be in writing. Furthermore, the lease does not need to be translated, notarised, legalised or apostilled.

Mortgages on aircraft are registered on the same aircraft register maintained by the CARC. Other than the consent of the CARC and the filing of the mortgage agreement with the CARC, there are no filings or registrations necessary or desirable for the registration of the mortgage. Registration of a mortgage with the CARC creates a valid charge over an aircraft. The mortgage does not need to be in a particular form and it does not need to be translated, notarised, legalised or apostilled.

There are no restrictions under Jordanian law as to the type of aircraft, which may be mortgaged, or the nature or amount of the debt secured by a mortgagee, provided that such debt is clearly specified. There are no restrictions on who can be a mortgagee under Jordanian law. However, under the law, any agreement entered into in favour of a non-Jordanian person in relation to an aircraft, must be approved by the CARC.

Under Jordanian law, a mortgage or any security interest over a property that is registered in Jordan is subject to Jordanian law. This rule is mandatory and it is considered as a matter of public policy parties to a mortgage agreement may not agree to any other forum. Accordingly, the choice of any foreign law (e.g. English law) to govern the mortgage will not be upheld as a valid choice of law in Jordan.

Stamp duties are payable on any agreement to which a Jordanian person is party or if it involves an asset located or registered in Jordan. As such, lease and mortgage agreements over aircraft are subject to stamp duties at the rate of 0.3-0.6% of the value thereof and will not be accepted in evidence in any legal proceedings in Jordan unless so stamped.



A mortgage on a property that is registered in Jordan is subject to Jordanian law

In addition to the foregoing, with respect to leases, lease payments are subject to a withholding tax at a rate of 10%. Please note, however, that withholding taxes apply whenever income earned in Jordan is paid by a resident of Jordan to a non-resident. Therefore, unless the owner is a Jordanian resident, no withholdings apply. Furthermore, lease payments are also subject to sales tax at the rate of 16%. It is the responsibility of the lessee as the importer of a service that is subject to sales tax to pay the same to the sales tax department.

COMMERCIAL AGENTS: The following is a summary on the most important aspects and provisions of the Commercial Agents and Middlemen Law No. 28 of 2001:

DEFINITIONS: The law governs matters relating to commercial agencies and commercial mediation in Jordan. The law does not apply to consultants and advisors providing consultancy and advisory services. The definitions provided for in the law for the terms “commercial agency” and “commercial agent” are quite broadly drafted so that they could be construed to include almost all types of commercial representations and commercial representatives. The term commercial agent includes a commission agent who carries on commercial dealings and transactions in his name but to the account of his principal in return for a commission as well as a distributor or a reseller in his own name and to his own account.

PROTECTIONS: The law offers Jordanian commercial agents certain protections, which relate mainly to two issues. These are of compensation upon the termination of a commercial agency agreement and the protection relating to the exclusive jurisdiction afforded by the law to Jordanian courts with regard to commercial agencies' disputes. These protections apply only to commercial agents who are Jordanian citizens or companies.

COMPENSATION: According to business guide 14 of the law, any termination of a commercial agency agreement (prior to the expiry of its term) without fault on

the part of the agent or for any other illegitimate reason, would entitle the agent to claim from the principal compensation for (i) the damage it incurs and (ii) the profits it loses.

However, the non-renewal of a commercial agency agreement upon its expiry should not subject the principal to any compensation to the agent. As far as open-ended agreements are concerned, it is our opinion that such agreements are not deemed to last perpetually and, thus, they may be terminated provided that such a termination is made pursuant to the provisions of the agreement and with reasonable notice. As for the amount of compensation that the agent is entitled to claim, the law is completely silent on the measure of damages awarded in such cases, and we have no legal precedents to guide us. However, in one of the cases filed by a commission agent against a principal pursuant to the Commercial Agents and Middlemen Law No. 44 of 1985 (the law that governed commercial agencies in Jordan prior to the enactment of the law), the competent court, by way of obiter dictum, ruled that the agent's profits for the last five years prior to termination may serve as a basis for assessment of the damages awardable on unlawful termination.

Obviously, in such cases and in assessing the compensation to be paid, courts will take into consideration such factors as the duration of the agreement, the expenses which the agent or the distributor incurred in marketing the products, the success achieved, the turnover and commissions or income which the agent or the distributor has been earning and the income which the agent or the distributor has lost or will lose as a result of the unlawful termination.

JURISDICTION: Business guide 16(a) of the law gives Jordanian courts the right to hear any conflict or dispute arising out of a commercial agency contract. This provision exists in the law for the protection of local commercial agents, which is an issue that is regarded by Jordanian courts as part of our public policy. Therefore, Jordanian courts, while and if assuming jurisdiction in the case, would consider a provision, in a commercial agency agreement, that refers disputes to another foreign jurisdiction (and arguably to arbitration) as null and void.

NON-JORDANIAN LAW: Where the commercial agency agreement imports a foreign law as the law of the contract, Jordanian courts, while and if assuming jurisdiction in the case, should nevertheless apply the provisions of the foreign law in adjudicating the case even though such provisions do materially and substantially conflict with, or differ from, the corresponding provisions in Jordanian law. The only exception to the above rule is that Jordanian courts will not apply a foreign law if it contravenes or conflicts with issues regarded as part of our public policy. The protection of the Jordanian commercial agent, especially in matters relating to termination and compensation, is viewed as an issue of public policy.

REGISTRATION: According to the law, a commercial agent is required to register its agreement with the Commercial Agencies Registrar within 60 days from the

date of the agreement. Furthermore, a commercial agency agreement that is concluded prior to the enactment of the law should be registered within six months from the effective date of the law.

Failure to comply with the registration requirement imposed by the law renders the agent unable to enforce the agreement in a court of law. However, failure to register an agency agreement within the above specified time periods does not prevent the commercial agent from registering its agreement at a later date, but will subject him to additional fees.

Based on the above, it is our opinion that in the event that the agency agreement is not registered with the Commercial Agencies Registrar, the concerned agent should not be entitled to benefit from any of the privileges granted by the law to commercial agents. It should be noted, however, that the registration requirement as imposed by the law is introduced in this obligatory manner for the first time in Jordan. This issue has not been tested before Jordanian courts and there are no precedents to guide us in this regard given that the law is relatively new. The above opinion is based on our interpretation of the provisions of the said law and there is no guarantee that a Jordanian court of law would have the same interpretation and views.

COMPETITION LAW: Jordan enacted the Competition Law No. 33 of 2004, which came into force on September 1, 2004 and replaced the Temporary Competition Law No. 49 of 2002. Before 2002, there was no specific legislation governing competition in Jordan.

The Competition Law applies to all production, commerce and services in the kingdom, as well as all economic activities outside the kingdom that shall have a direct effect in the kingdom.

The Competition Law establishes the Committee for Competition Matters, which has the responsibility of presenting opinions and advice regarding the general plan for competition, as well as reviewing matters related to the Competition Law, including draft laws and regulations.

The Competition Law has also created the Competition Directorate in the Ministry of Industry and Trade, which is charged with the following duties and responsibilities:

- Contributing to the general competition plans and legislation;
- Working to promote, protect and encourage free competition;
- Gathering information and conducting investigations to uncover any violations of the rules of competition;
- Issuing opinions on matters related to its activities; and
- Cooperating with similar bodies outside of the kingdom with the intent of exchanging general information and data to facilitate its functions.

Any practices that shall be deemed in contravention of the Competition Law and executed with the intention of preventing fair competition shall be pro-

hibited; especially those whose subjects or aims are to:

- Fix the prices or quantities of products as they see fit;
- Share the market on the basis of geographical regions;
- Set barriers in order to hinder the entry of new enterprises thus eliminating them; and
- Collusion in bids by over or underbidding with the intention of preventing competition in any way.

An enterprise with a dominant position in the local market shall also be subject to the above mentioned provisions and shall also be prohibited from discriminating against or preventing consumers from dealing with any competing enterprise. Any attempt to monopolise the resources necessary to a competing enterprise with the intention of manipulating the market prices shall also be prohibited.

The resale of a product below its natural price (dumping) shall be prohibited if the action is intended to limit competition. Any violation of this provision will result in the fine of no less than JD200 (\$284) and not more than JD20,000 (\$28,400). The provision shall not however, apply to perishable goods, or to sales with the intention of liquidating a business or to restock at lower prices.

ECONOMIC CONCENTRATION: Any activity resulting in the full or partial transfer of ownership, interest, property, rights, shares or obligations from one enterprise to another shall be considered an economic concentration operation.

If the economic concentration operation would consequently result in the enterprise holding a dominant position in the local market (40% or more of the total local market transaction) then the enterprise must first receive approval from the Minister of Industry and Trade. This may be accomplished by submitting a petition to the Competition Directorate on the form adopted by the Ministry of Industry and Trade, which must include the following:

- A copy of the articles and memoranda of the enterprises concerned;
- A copy of the agreement of concentration;
- A list of the most important products and services provided by the concerned enterprises;
- A report of the positive consequences of the operation on the market;
- Financial statements of the most recent fiscal years of the concerned enterprises;
- A list of shareholders and partners of the concerned enterprises;
- A list of officers and members of their management boards, as well as members of the board of directors; and
- A list of branches of each enterprise.

The Competition Directorate will publish in two daily newspapers an announcement regarding the petition at the expense of the applicant. The Minister of Industry and Trade may then approve the operation so long as it does not have a negative impact on competition, or if the suggested positive economic benefits outweigh the latter.



The resale of a product below its listed price is prohibited if it is intended to limit competition

The Minister of Industry and Trade may also allow the operation to continue provided that the enterprise agrees to meet conditions that are specified by the Minister of Industry and Trade.

JURISDICTIONAL MATTERS: The Court of First Instance shall have jurisdiction to hear cases related to any violations of the provisions of the Competition Law. Any cases concerning inconsistencies with the competition provisions must provide evidence in the form of:

- The decision of the Minister of Industry and Trade upon the recommendation of the director;
- Enterprises from the private sector;
- Licensed consumer protection associations;
- At least five consumers who have suffered harm;
- Chambers of commerce and industry; and
- Professional and syndicate organisations.

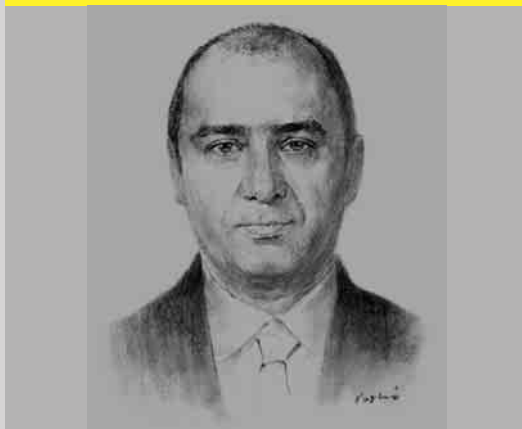
The court may then allow an order of declaration to show the extent of damages resulting from the breach of the Competition Law, order a removal of the violation within a period set by the Court and set a suitable penalty for the violators.

An officer of the Competition Directorate shall carry out the necessary investigations and may:

- Enter, during daily working hours, commercial establishments, offices and stores to conduct the necessary inspections and searches;
- View and seize documents, records and files, or obtain copies or photos of such files; and
- Question persons suspected of violating the provisions of the Competition Law and record the testimony in transcripts issued for that purpose.

Any person who prohibits an officer from carrying out his duties, destroys or conceals documents shall be punishable by a fine no less than JD500 (\$710) and no more than JD5000 (\$7100).

OBG would like to thank *Ali Sharif Zu'bi Law Office*
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THE REPORT Jordan 2008



Khaled Asfour

A clearer picture

OBG talks to Khaled Asfour, Partner, Ali Sharif Zu'bi Law Office

What sort of recent legal reforms have improved the economic climate in Jordan?

ASFUR: A new law, the Development Zones Law, was enacted in February 2008 to reinforce the government's policy to foster areas that lack development, advanced infrastructure and job opportunities. This law came in addition to the Free Zones Corporations Law and the Aqaba Special Economic Zones Law. It affords entities established within the zones an array of benefits and exemptions. Investors wishing to incorporate a new entity now enjoy a pick-and-choose approach, where they have the option of choosing the most appropriate zone for their business activities and incorporating their businesses within such a zone.

Furthermore, a recent reform to the Jordanian Companies Law reduced the minimum authorised share capital for registering a limited liability company from JD30,000 (\$42,600) to JD1000 (\$1420). This reform is advantageous to individuals wishing to incorporate small businesses as it relieves small-business investors from the onerous requirement of securing large amounts of debt or equity financing.

A new leasing law has been approved and is aimed at encouraging leasing through establishing clear rules, a registry and self-help remedies for the leasing company in case of default by the lessee.

What are the legal hurdles for foreign investors?

ASFUR: Jordanian investment laws and regulations prohibit foreign investments in specified business projects such as passenger and freight road transportation projects and sports clubs. In addition, a minimum foreign investment requirement in non-public companies of JD50,000 (\$71,000) may not seem high but that level acts as a hurdle to projects that require a stepped approach to capital funding or where there is more than one foreign investor involved in each project. Notwithstanding this, foreign investors are free to invest in numerous business projects and can enjoy a controlling stake in the project company.

Typically, complaints received from foreign investors are associated with the large number of business-related fees. Furthermore, foreign investors are concerned with the time-consuming process of securing multiple authorisations from several ministries and directorates before commencing operations. Nonetheless, the government has launched reforms to establish a truly effective one-stop-shop whereby investors submit a single application to obtain all the relevant approvals, authorisations, benefits and exemptions.

How much are governance and transparency in need of enhancement and improvement?

ASFUR: Efficiency of governance and a high level of transparency are major concerns in the recent reforms. Achieving this will require the enforcement of several measures and principles in the legal, administrative and technical fields. Jordan has come a long way in undertaking the necessary measures but more needs to be done. A global revision of legislation relating to economic activity so as to adapt to the free market economy and encourage investments has been initiated. The e-government has been introduced throughout the relevant institutions. Nonetheless, better access to information, as well as an efficient system of control and supervision over ministries and other public institutions, is still required.

How will public-private partnerships (PPPs) affect the investment environment?

ASFUR: PPPs are an appropriate mean of giving momentum and dynamism to an economy usually dominated by the public sector. A PPP is a method of action that aims to unite the virtues of both sectors.

The economic growth rate has increased continuously since this process began. The performance of the projects that have been privatised is improving on all levels, and more jobs have been created due to the growth in investment levels. PPPs have contributed to the improvement of the investment environment.