

The Extent to which the Jordanian Constitutional Court Oversees the Constitutionality of Temporary Laws: Does the Constitutional Judiciary Intervene in Overseeing the Constitutionality of Temporary Laws Issued by the Executive Authority?

Até que ponto o Tribunal Constitucional da Jordânia supervisiona a constitucionalidade das leis temporárias: a Corte constitucional intervém no controle da constitucionalidade das leis temporárias emitidas pelo Poder Executivo?

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Resumo

O artigo analisa até que ponto o Tribunal Constitucional da Jordânia supervisiona a constitucionalidade de leis temporárias emitidas pelo poder executivo. Assim, através deste estudo, será destacado o papel do Tribunal Constitucional na fiscalização da constitucionalidade das leis transitórias e no esclarecimento dos desenvolvimentos constitucionais no que diz respeito às alterações constitucionais de 2011 relativas à criação de um tribunal constitucional cuja missão é fiscalizar a constitucionalidade das leis e regulamentações em vigor, inclusive leis transitórias, e destacar as alterações ocorridas na Constituição da Jordânia e na lei do Tribunal Constitucional para 2022. Por isso, o estudo adotou a abordagem analítica e descritiva, analisando os textos da Constituição da Jordânia e do lei do Tribunal Constitucional, e descrevendo a posição do legislador constitucional jordaniano, listando as várias regras relacionadas à supervisão do Tribunal Constitucional da Jordânia sobre a constitucionalidade de leis temporárias. O estudo concluiu com uma série de conclusões e recomendações. A mais importante delas é que a supervisão da Corte Constitucional da constitucionalidade de leis temporárias leva à proteção dos direitos e liberdades dos cidadãos, e que a Constituição da Jordânia confiou ao Parlamento (como autoridade legislativa) a criação de leis permanentes

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submetidas sob elaborar leis do governo, bem como considerar leis temporárias e válidas, seja por aprová-las, alterá-las ou rejeitá-las.

Palavras-chave: Tribunal Constitucional; Constitucionalidade das Leis; Leis Transitórias; Parlamento; Judiciário Administrativo; Poder Executivo.

Abstract

The article analyzes the extent to which the Jordanian Constitutional Court supervises the constitutionality of temporary laws as issued by the executive authority. Therefore, through this study, the role of the Constitutional Court will be highlighted in supervising the constitutionality of temporary laws and clarifying constitutional developments with regard to the constitutional amendments of 2011 pertaining the establishment of a constitutional court whose mission is to monitor the constitutionality of laws and regulations in force, including temporary laws, and to highlight the amendments that occurred to the Jordanian Constitution and the Constitutional Court law for 2022. For this reason, the study adopted the analytical and descriptive approach by analyzing the texts of the Jordanian Constitution and the Constitutional Court law, and describing the position of the Jordanian constitutional legislator by listing the various rules related to the oversight of the Jordanian Constitutional Court on the constitutionality of temporary laws. The study concluded with a number of findings and recommendations. The most important of which is that the Constitutional Court's oversight of the constitutionality of temporary laws leads to the protection of the rights and freedoms of citizens, and that the Jordanian Constitution entrusted the Parliament (as a legislative authority) with setting up permanent laws submitted under draft laws from the government, as well as considering temporary and valid laws, whether by approving, amending or rejecting them.

Keywords: The Constitutional Court; The Constitutionality of Laws; Temporary Laws, The Parliament; The Administrative Judiciary; The Executive Authority.

Introduction

Temporary laws are considered exceptional legislation issued by the executive authority between the sessions of Parliament or during its dissolution period with the aim of taking quick measures in circumstances that do not tolerate delay, provided that they are presented to the Parliament at its first meeting (Tahrawi, 1992; Al-Mutairi, 2013).

Therefore, some jurisprudence considers that these laws are regulations with legislative power issued by the executive body as an exception to meet exceptional (necessary) circumstances when Parliament is not convened (Al-Kaid, 2000; Al-Sheikh, 2003).

In fact, to find out whether temporary laws are subject to the oversight of the Constitutional Court or not, it is necessary to address or examine their nature. Are they

considered administrative decisions that are not subject to the judicial oversight of the Constitutional Court on the grounds that they are issued by the executive authority represented by the Council of Ministers, or are they laws subject to the oversight of the Constitutional Court? Accordingly, the action is an administrative decision if it is issued by an individual or a body affiliated with the administration, which is considered a branch of the executive authority, while the action is legislative if it is issued by the legislative authority (Al-Said, 2022; Al-Azzam, 2009).

Therefore, the importance of the article is evident in the study of the Constitutional Court's oversight of temporary laws. In this article, we will study this topic in depth, and pay attention to all aspects, whether theoretical or practical. This topic deals with the absence of the legislative authority that is concerned with legislation, and the replacement of the executive authority in issuing temporary laws within the restrictions and conditions stipulated in the text of Article (94) of the Constitution.

Hence, it was necessary to discuss the legal nature of these laws, and the Constitutional Court's oversight of temporary laws. The choice of the research topic came as a result of the emergence of new practical facts worthy of study. Among these facts is that the executive authority has the power to issue temporary laws and that this power is an exceptional power, and this authority uses its power to issue these laws in the event that the Parliament is dissolved. The case of the Parliament not convening according to Article (94/1) of the Jordanian Constitution is excluded.

Therefore, the study aims to show the extent to which the temporary laws issued by the executive authority have an administrative nature according to the formal criterion and the extent to which they can be considered administrative acts to be challenged before the administrative judiciary, as well as to indicate the extent to which the Constitutional Court controls the time limit in order to issue temporary laws.

In this research, we will also address several problems and answer several legal questions. Among the most important of these questions: What is the legal nature of temporary laws? How does the Constitutional Court monitor the legal nature of temporary laws? What are the restrictions and conditions that must be met to allow the executive authority to issue temporary laws? What is the effective means to subject temporary laws to the oversight of the Constitutional Court?

Methodological procedure

Therefore, the study adopted the descriptive and analytical approach. Where, through the descriptive approach, the position of the Jordanian constitutional legislator will be described by listing the various rules related to the Jordanian Constitutional Court's oversight of the constitutionality of temporary laws, clarifying the legal nature of temporary laws, and tracking the oversight of the constitutionality of temporary laws, which went through two stages; The first stage: monitoring the constitutionality of temporary laws before the

establishment of the Constitutional Court, and the second stage: monitoring the constitutionality of temporary laws after the establishment of the Constitutional Court.

As for the analytical approach, its purpose is to analyze the constitutional texts in the Jordanian Constitution, and the texts of the Constitutional Court law, and to clarify the most prominent elements of differences in the control over the constitutionality of laws and regulations in force, including the temporary laws in the Jordanian Constitution, and the extent of their inadequacy in explaining the Constitutional Court's oversight of the constitutionality of temporary laws.

Legal Nature of Temporary Laws

To determine the extent to which temporary laws have a different nature from laws issued by the legislative authority, or that they are of a single legal nature, it is necessary to address the criteria proposed by jurisprudence in order to distinguish between the legal act issued by the executive authority and the laws issued by the legislative authority. Jurisprudence put forward several criteria, the most important of which are the objective and formal criteria (Al-Husban, 2005; Adwan & Nasrawin, 2018).

With regard to the formal criterion, it looks at the act in terms of form, so the nature of this act is determined in terms of the authority that issued it or the member to whom this act belongs, and as a result the authority to which that member belongs. It is noted that this criterion is based on the principle of separation of powers, because most of the functions carried out by the state in general are the function of legislation, implementation and judiciary.²

Accordingly, acts issued by the executive authority are considered administrative acts regardless of the content they contain, and acts issued by the legislative authority are regarded legal (Al-Ghazzawi, 2014). Hence, the essence of this criterion becomes clear to us, which is the subordination of the act issuer to any of the legislative and executive authorities. In order to adapt the legal act, we must search for the authority that issued the act and the authority that that member belongs to. If the member belongs to the executive authority, his act is considered an administrative one, but if he belongs to the legislative authority, the act is considered a legal one (Hafez, 1987; Abu Hajilah, 2004).

As for the objective criterion, it looks at the nature of the act, i.e. the essence, material and content of it. If the act includes general, abstract, binding rules, then the act is considered legal, regardless of who issued it, the procedures followed in issuing it, or the form it takes (Al-Tamawy, 1991).

Among the legislative acts that are considered objective and abstract general rules are the laws issued by the Parliament, and the regulations issued by the executive authority. These acts include general, objective, abstract legal rules, with the difference in legal value between them (Al-Momani, 2013). Accordingly, the act that does not contain general and abstract rules is not considered a legislative act, despite its issuance by a legislative authority. Examples of

² Articles 25, 26, 27, The Jordanian Constitution, 1952.

these laws are the general amnesty laws, the general budget law, the laws ratifying the concession of public utilities, as well as the laws ratifying international treaties and agreements. As for the regulations issued by the executive authority, they are considered legislative acts because they contain general and abstract rules (Al-Borini, 2005).

Moreover, according to this criterion, laws promulgated by the Parliament, which contain general and abstract rules, are not only considered legislation. Rather, it also includes regulations issued by the executive authority, within the limits of constitutional provisions, namely Articles (31, 94, 114, 120). According to this criterion, it is difficult to distinguish between law and regulation because they are similar in terms of content and substance. The regulations are called subsidiary legislation, as this designation generally indicates that they include general and abstract legal rules, and also that they are issued by the executive authority that does not have an inherent power of legislation or general jurisdiction (Shatanawy, 1997; Al-Momani, 2012).

(a) Position of the Jordanian Constitutional Legislator on the Legal Nature of Temporary Laws

The objective criterion is taken into account in the case of the actual application of the principle of separation of powers. However, this separation remains in place even in the absence of the Parliament (Al-Dorouh & Kandeh, 2017). The essence of this principle is not only represented in the union of three authorities and the separation between them, but rather it distributes the basic functions of the state to those authorities. The legislative function is given to the legislative authority as an authentic relationship, meaning that this authority has the general jurisdiction in legislation (Al-Assar, 1995).

In fact, the absence of this authority as an exception does not mean that it is transferred and merged in principle with the executive authority (Bawazir, 2014). However, the matter is that in the absence of the Parliament, and in the event of the availability of exceptional circumstances that do not tolerate delay, the legislative function entrusted to the administration is activated (Hafez, 1987).

However, the legislative function of administration is not only exercised by the executive authority in exceptional circumstances, but also in normal circumstances. This applies to independent or executive regulations as per Articles (31, 114, 120) of the Constitution. In this case, will the principle of separation of powers be suspended until the executive authority completes the issuance of these regulations? (Al-Kaid, 2000).

Therefore, these regulations do not differ in substance at all from temporary laws. These regulations include general and abstract legal rules and address through them general legal centers (Al-Afifi, 1994). However, considering that the legislative authority has the general jurisdiction to legislate, the executive authority has the power to issue these regulations by way of specification and exception (Jamal Al-Din, 1982).

Accordingly, Article (94) of the Jordanian Constitution stipulates that:

1. When the House of Representatives is dissolved, the Council of Ministers, with the approval of the King, has the right to set temporary laws to deal with the following matters:

a) General disasters.

b) State of war and emergency.

c) The need for necessary and urgent expenditures that cannot be postponed. Temporary laws that must not contradict the provisions of the Constitution shall have the force of law, provided that they are presented to the Parliament at its first meeting to decide on them during two consecutive regular sessions from the date of their referral. The Parliament may approve, amend or reject these laws. If it rejects them, or if the period stipulated in this paragraph expires and a decision is not taken on it, the Council of Ministers, with the approval of the King, shall declare its invalidity immediately. From the date of that declaration, the force of law it had shall cease, provided that this does not affect contracts and acquired rights.

2. Temporary laws shall have effect in the manner in which the effect of laws is enforced pursuant to the provision of the second paragraph of Article (93) of this Constitution.³

We find that the aforementioned text grants the executive authority the function of legislation in specific circumstances and according to standards and controls that must be adhered to. However, this does not mean that the executive authority turns into a legislative authority, but rather it remains an executive authority in terms of the functions given to it, including legislation (Ali, 1978).

Therefore, the acts issued by the executive authority in exceptional circumstances remain administrative acts that address public legal centers. Accordingly, the executive authority cannot assume the role of the legislative authority and its acts are considered as legislation issued by the legislative authority (Shatanawy, 1997).

However, by referring to the Jordanian Constitution, we find that it defines the nature, foundations and controls of the legislative function of the administration, in particular with regard to temporary laws. This is so that the administration does not abuse its authority in terms of scope, time, or facts or reasons that lead the executive authority to issue temporary laws.

Although this does not apply to the legislative power entrusted to the legislative authority, given that the legislative authority is monitored by the constitutional judiciary, and monitoring is carried out in terms of jurisdiction, form, reason, and also in terms of purpose. However, by referring to the Jordanian Constitution, we find that it does not restrict the legislative authority by those restrictions and limits when issuing laws (Tahrawi, 1992).

On the other hand, we find that the Jordanian Constitution recognizes that temporary laws do not rise to the level of laws, because they are not issued by a legislative authority. This is what is concluded from the text of Article (94) of the Constitution. The aforementioned article indicates that these laws have an administrative character. As a result, even if these laws issued by the executive authority enjoy the same force as the laws in the formal sense issued by the legislative authority, they do not rise to the level of law. The said article also indicates that what is meant by the phrase (force of law) is force in terms of scope and not

³ Article (1/94) of the Jordanian Constitution.

nature, and that temporary laws can deal with some issues of regular laws and organize these matters (Jamal Al-Din, 1982).

As for the formal criterion, we find that it constitutes a manifestation of the principle of the rule of law. The idea of this criterion is that the highest legal rule is superior to the lowest, and therefore the legislation issued by the legislative authority must not violate a constitutional rule (Al-Khatib, 1988).

In fact, the legislation issued by the legislative authority represented by the Parliament is superior to other legal rules issued in accordance with the provisions of the Constitution, regardless of whether this act was legal or issued in exceptional circumstances. Therefore, the temporary laws issued by the executive authority must not violate the regular laws issued by the legislative authority (Shatanawy, 1997).

Therefore, by referring to some of the opinions of administrative legal jurisprudence, we find that some jurisprudence does not recognize the executive authority to deal with some issues related to the basic rights of citizens and organize them according to temporary laws. The constitutional legislator left those issues to the legislative authority, because they are sensitive issues affecting the rights of citizens (Al-Tamawy, 1991).

Also, one of the tasks of the executive authority is to implement laws and protect the interests of citizens, not to enact legislation in this regard. Therefore, the executive authority's handling of these issues within temporary laws constitutes an explicit violation of the provisions of the Constitution (Jamal Al-Din, 1982).

Thus, one of the justifications for adopting the formal criterion regarding acts issued by the Parliament, such as the general amnesty law or the general budget law, is that these actions are not considered legislative, and they must be monitored by the administrative judiciary. Therefore, it was necessary to adopt the formal criterion because it is easy to apply and provides greater protection for citizens' rights and freedoms (Hafez, 1987).

(b) Position of the Jordanian Administrative Judiciary on the Legal Nature of Temporary Laws

It should be noted that by referring to the direction of the Jordanian administrative judiciary with regard to adapting the legal nature of temporary laws, we find that it adopts the objective criterion, as it considered it as legislative acts. It was stated in a ruling by the Jordanian Supreme Court of Justice (formerly) that:

At times when the Parliament is not in session or is dissolved, the principle of separation of powers disappears temporarily and the executive authority combines, in addition to the tasks of administration, the tasks of legislation, meaning that the executive authority is a legislating authority. Therefore, the laws it issues in this capacity are not considered administrative decisions, but rather a legislative act. The Supreme Court of Justice does not have the jurisdiction to cancel them through a direct lawsuit.⁴

⁴ The Jordanian Supreme Court of Justice (formerly) in its ruling No. (30/2013) dated Dec. 1, 2013.

This confirms that the administrative judiciary has adopted the objective criterion to determine the legal nature of temporary laws and considered them legislation. Therefore, it is not permissible to dispute these acts through a claim of overstepping the authority and canceling it, like any other administrative act. The only way to dispute these acts is the constitutional lawsuit (Hafez, 1987).

However, there is an aspect of legal jurisprudence that contradicts what the administrative judiciary adopted in terms of its adoption of the objective criterion to determine the legal nature of temporary laws. This aspect of jurisprudence says that the administrative judiciary resorted to the formal and not the objective criterion, because in times when Parliament is not in session or dissolved, the principle of separation of powers disappears temporarily, and the executive authority combines the tasks of administration and legislation, meaning that it becomes a legislating authority. The executive authority acquires a new capacity, which is that of the legislative authority, and thus it is considered a legislator specialized in enacting laws as an exception (Shatanawy, 1997).

It is noted that the adaptation made by the administrative judiciary to temporary laws is that it adopts the objective criterion that these laws have the force of law, and that they can amend or cancel any law issued by the authority that has the inherent jurisdiction in legislation. The result that follows from this is that these laws can deal with issues dealt with by ordinary laws, whatever their nature. Jurisprudence and judiciary have agreed that the provisional law can deal by legislation with the issues that the law deals with.

In fact, according to this adaptation of the administrative judiciary, it is not possible to contest these laws on the grounds of cancellation before the administrative judiciary, given that they are a legislative act that does not differ from the laws issued by the legislative authority (Shatanawy, 1997).

However, by closely following the rulings of the administrative judiciary in Jordan, we find that it takes the formal criterion indirectly when dealing with the issue of temporary laws. The administrative judiciary dealt with the case of urgency and considered that this case is subject to the discretion of the administration or the executive authority and is based on appropriateness. Therefore, the consideration of the administrative judiciary that the state of urgency is based on convenience, and leaves the administration the right to exercise it under the control of the legislative authority, indicates that the administrative judiciary has left the state of urgency to the executive authority. It was stated in a jurisprudence of the Jordanian Supreme Court of Justice (formerly) that:

The state of urgency to issue temporary laws in the absence of Parliament is a matter left to the discretion of the Council of Ministers under Parliament's oversight, just as jurisprudence has settled on that. Therefore, the Supreme Court of Justice does not have the right to oversee the entry related to the state of urgency. This indicates that the Court takes indirectly the formal criterion to indicate the nature of temporary laws.⁵

⁵ The Jordanian Supreme Court of Justice (formerly) in its ruling No. (31/2013) dated Dec. 3, 2013.

So, the administrative judiciary, when dealing with the issue of temporary laws, considers them as administrative acts. The periods for appeal are not specified, while the periods specified for appealing against administrative decisions are applied. Article (8/a) of the Administrative Judiciary Law No. 27 of 2014 stipulates that:

With due regard to what is stated in any other law and the provisions of paragraphs (c) and (d) of this article, the lawsuit shall be filed with the Administrative Court by means of a petition submitted to it within sixty days from the day following the date of notification of the administrative decision complained about to the petitioner or its publication in the Official Gazette or by any other means, including electronic means, if the legislation provides for the implementation of the administrative decision from that date or requires that it be notified to the concerned persons in that way.⁶

That is why the administrative judiciary decided not to deal with the regulations as subsidiary legislation. This applies to temporary laws as well as subsidiary legislation. These regulations apply the principles that apply to regulatory administrative decisions in terms of the start of their implementation period, i.e. their publication in the Official Gazette. The rules mentioned in Article (93/2) of the Constitution that relate to legislation issued by the legislative authority are not applied. We also find that the administrative judiciary applies the interest condition and considers it as a prerequisite for the lawsuit that is filed to suspend the operation of the temporary law. It does not consider this lawsuit as one of (the Hisba lawsuits) that do not require the availability of interest to be filed. Therefore, the administrative judiciary considers an appeal against temporary laws as an appeal against any administrative act, and relies on the formal criterion in determining the nature of this act.

Accordingly, the Jordanian Supreme Administrative Court in its ruling No. (278/2019) dated Dec. 31, 2019 ruled that:

Article (5/e) of the Administrative Judiciary Law No. (27) of 2014 stipulates that a lawsuit filed by someone who has no personal interest is not accepted, no interest, no lawsuit. The claim is dependent on the interest, which is the benefit that the plaintiff reaps when ruling for his requests. The interest must be available at the time of filing the case. Its existence must continue as long as the case remains standing, because it is a condition for initiating the case and the basis for its acceptance. It must be defined in such a way that the appellant is in a distinct condition from others that qualifies him to institute and accept a revocation action in order to protect and defend this interest. Therefore, the lawsuit for annulment is not considered a (Hisba lawsuit) (public lawsuit) in that the appeal by way of annulment is open and can be approached by whomever he wants at the time he wants to defend the principle of legality. The appellant must have a personal and direct interest so that it is not mixed with the public interest. Rather, it must be distinguished from it and be independent and legitimate. Two basic conditions must be met for the availability of the personal and direct interest in the plaintiff. The first of them is that the plaintiff, within the limits of the capacity in which the contested regulation disputed, establish evidence that damage has been inflicted on him, whether economic or otherwise. This damage is

⁶ Article (8/a) of the Administrative Judiciary Law No. 27 of 2014.

direct, independent of its elements, and can be realized, because the administrative court's oversight of decisions and regulations is not intended by the legislator to have a theoretical interest in them, but rather to face real damages in order to repay them and clear their legal effects. This is not possible unless the interest to be protected is a direct personal interest. The second condition is that the damage is the result of the contested regulation, which implies the establishment of a causal relationship between them, in the sense that the alleged damage stems from and is linked to the legislative text. The plaintiffs (appellants) did not prove that they had a personal and direct interest in filing and initiating the case. It is based on this that filing a lawsuit according to what we have shown has lost its legal basis. The Administrative Court, in its ruling subject to appeal, reached this conclusion and ruled to dismiss the case as a form of lack of interest for the appellants. In doing so, the Court was quite correct.⁷

Therefore, we find that the administrative judiciary supervises the regulations issued by the executive authority or administration. This indicates that the court takes the formal standard when it adapts these regulations issued by the executive authority. The Jordanian Administrative Court ruled in its ruling No. (224/2020) dated Nov.9,2020 that:

By extrapolating the aforementioned constitutional and legal texts, as well as the texts of the contested regulation, it becomes clear that the issuance of the regulation is conditional on its non-violation of the provisions of the law issued pursuant to which it was established for its implementation. Referring to the regulation subject of the appeal, we find that the Tourist Guide Services Regulation No. (31) of (2020) is a regulation issued pursuant to Article 19 of the Tourism Law and its amendments No. 20 of 1988. Article 31 of the Constitution permits the issuance of the necessary regulations to implement the provisions of the laws. Accordingly, Tourist Guide Services Regulation No (31) of (2020) was developed in implementation of the text of Article 19 of the Tourism Law No. 20 of 1988. The regulation came in implementation of the articles contained in the aforementioned Tourism Law, in agreement with the provisions of the Constitution and the law that legitimized the regulation in all its articles in accordance with the Articles 31 and 45 of the Constitution, Nothing in its texts contradicts the law according to which the appealed regulation was issued. The purpose of issuing this regulation is to regulate the functioning of the profession of guiding tourists and visitors and accompanying them to the tourist, archaeological and natural places in the Kingdom, introducing them and providing explanations and information to them with the aim of achieving the public interest and serving the national tourism to the fullest. The plaintiffs did not provide evidence that the Council of Ministers, by issuing this regulation, had violated or transgressed the law, or that the contested regulation had violated the law on which it was issued. This makes it so that the issuance of the regulation, which is the subject of the appeal, is consistent with the provisions of the Constitution and the law. Thus, the reasons for the appeal are not based on the law and do not apply to it. Accordingly, the case must be dismissed.

Overseeing the Constitutionality of Temporary Laws

The power to issue temporary laws by the executive authority is exceptional and it is not exercised except when Parliament is dissolved. Thus, the power to issue temporary laws is

⁷ The Jordanian Supreme Administrative Court in its ruling No. (278/2019) dated Dec. 31, 2019.

limited to the period of absence of Parliament. These legislations have the force of ordinary laws (Al-Rabi, 2004).

In fact, by tracing the oversight of the constitutionality of temporary laws, we find that they have gone through two stages; the first stage: monitoring the constitutionality of temporary laws before the establishment of the Constitutional Court, and the second stage: monitoring the constitutionality of temporary laws after the establishment of the Constitutional Court.

(a) Overseeing the Constitutionality of Temporary Laws before the Establishment of the Constitutional Court

It should be noted that the constitutional legislator successfully named the temporary laws. This is in contrast to the designations in other Arab laws that have been called regulations of necessity or regulations of urgency (Al-Tamawy, 1991).

A part of legal jurisprudence, we agree with this opinion, believes that the principle of the people is the source of power, which requires that the representatives of the people not be absent under any circumstances. Therefore, it is necessary to delete the word “dissolved” from the beginning of Article (1/94) and replace it with the phrase “not convened” in order to achieve the higher interest of the state and its people, by enabling disasters and wars to be dealt with when they occur according to temporary laws issued by the government with the approval of the King (Al-Hamouri, 2011).

However, with reference to the principle of separation of powers; we find that legislation is the task of the legislative authority. As for the tasks of its implementation, it is the responsibility of the executive authority. However, due to considerations mentioned in Article (94) of the Constitution, the executive authority is granted the functions of the legislative authority by issuing temporary laws on an exceptional basis within specific conditions in the Constitution. Therefore, this authority that was granted to the executive authority must be monitored (Al-Borini, 2005).

The executive authority now has two powers: the power to issue temporary laws, and the power to implement those laws, i.e. it has the power to legislate and implement at the same time. This leads to the disruption of the principle of separation of powers. On the other hand, we find that actions issued by the executive authority are subject to judicial control, with some exceptions. We have previously indicated that the temporary laws issued by the executive authority are considered administrative acts, and do not correspond to the regular laws issued by the legislative authority regarding judicial control over them (Fouda, 1994).

We note that the authority to issue temporary laws was granted to the administration. However, the administration does not enjoy great powers and sufficient freedom as the legislative branch enjoys. The constitutional legislator succeeded in this matter, because it is possible for the executive authority or administration to abuse its authority if it is granted the same powers as the legislative authority (Al-Jarf, 1976). It also leads to a violation of the principles of legality and the separation of powers. Therefore, it was necessary to subject the

acts issued by the executive authority and the administration to the oversight of the administrative judiciary, given that these acts are administrative. The administrative judge may examine the elements of the act in terms of form, jurisdiction, location, cause and purpose as basic elements for any legal administrative act in order to determine its legality or not (Jamal El-Din, 1982).

Therefore, we find that the text of Article (94) of the Constitution laid down a set of conditions that the executive authority and the administration must abide by when issuing temporary laws. Among those conditions: 1- Time, that is, to be issued in the absence of Parliament according to the amendment of the new constitution. This situation has become represented in the case of Parliament being dissolved, and deleting the case of Parliament not in session. We wish the constitutional legislator to abandon this amendment for the reasons we mentioned previously. 2- Circumstances, i.e. the availability of a state of necessity to issue such laws. 3- Scope and objective limitation, meaning that these actions do not violate the Constitution. 4- Presentation to Parliament in its first session (Al-Borini, 2005).

However, the interest in this research will be in the second condition, which is related to judicial control over temporary laws. As for the other conditions, it does not raise any problem. The idea of a state of necessity is the existence of unexpected exceptional circumstances, which would lead to an increase in the powers of the executive authority in order to find solutions to meet those circumstances. These solutions are represented by carrying out some administrative actions or procedures, or issuing some legislation related to events that cannot be delayed or postponed in order to ward off imminent damage to the state. These pieces of legislation abrogate, modify or create legal rules. Therefore, the executive authority combines two tasks, which are stipulated in the Constitution and legislation, but in an exceptional way (Abdel Naeem, 2002).

Thus, the text of Article (94) of the Constitution came in order for the executive authority not to arbitrarily use its power by defining the conditions for its exercise, the extent to which it deals, and the means of judicial control over it. This provision prevents the executive authority from becoming an opponent and an arbiter at the same time (Shatanawy, 1997).

In addition, by referring to the text of Article (94) of the Constitution, we find that the phrase "in matters that require taking necessary measures that do not tolerate delay or that require the disbursement of urgent expenses that cannot be postponed" came to be expanded in its content as it is subject to interpretation and is subject to the discretion of the executive authority. Therefore, not defining the state of necessity that cannot be delayed would raise several problems. This case is not subject to a specific control to resort to. Some matters that are considered necessary and urgent by some jurists may not be considered as such by other jurists (Al-Hayari, 1977).

Accordingly, the case of urgency contained within Article (94) of the Constitution should not be expanded in its interpretation in order to remain narrow, because this case is an exception to the original. Therefore, resorting to Article (94) of the Constitution must be within specific criteria that are based on jurisprudence and judiciary (Madanat, 2008).

In fact, we find that the Jordanian jurisprudence and administrative judiciary set certain limits for the executive authority and conditions that must be met in order for the state of

urgency to exist. The executive authority can resort to Article (94) of the Constitution within certain conditions and controls, namely: 1- Unusual and unfamiliar circumstances exist that threaten public order. This threat may be natural, such as disasters, or economic, such as strikes and economic blockades. It could be foreign as wars. This means that any ordinary law, the application of which threatens the running of public utilities regularly and steadily, and is incapable of facing the dangerous conditions, so the application of the state of urgency by the administration is the only way to ward off the danger it faces (Hmaidat, 2004).

Therefore, if there is a legal or constitutional means that is followed in normal circumstances, it can be used and resorted to in order to face these risks. The executive authority is bound to use it. If an exceptional means was used, then this constitutes an arbitrary use of power (Bouaraki, 2010). 2- The act of urgency that the administration undertakes is in line with the exceptional cases facing the administration, meaning that this act does not exceed the limits of facing those circumstances. Therefore, there must be a link between the temporary laws issued by the executive authority. The aim of their issuance is to preserve the sovereignty and integrity of the state. This condition is considered essential and must be met so that the executive authority does not expand on the use of the state of urgency in order to issue temporary laws (Jamal Al-Din, 1982).

However, in order to preserve the principle of the hierarchy of legal rules and the principle of legality, the act of the authorities, in particular the executive authority must be monitored (Al-Billeh, 2022a). The oversight exercised by the legislative authority over the acts of the executive authority is nothing but insufficient political monitoring in order to ensure effective control over the acts of the executive authority. Also, this control is subsequent, that is, after the issuance of temporary laws (Al-Hayari, 1977).

In addition, in order to ensure control, it must be given to the administrative judiciary, as it is an independent and impartial body. By reviewing the development of the administrative judiciary's oversight of the constitutionality of temporary laws, we find that prior to the issuance of the Jordanian Supreme Court of Justice Law No. (12) of 1992, there was no effective control of the principle of legality (Hafez, 1987; Al-Billeh, 2022b).

In fact, individuals could not individually challenge provisional laws as unconstitutional by means of a principal lawsuit. The decision to be challenged must be a final administrative decision, or the unconstitutionality of the law applicable to certain disputes must be argued. This indicates that the control of the administrative judiciary was limited only to the annulment of decisions issued based on a regulation contrary to the law or the Constitution (Kanaan, 2006).

However, after the issuance of the (repealed) Jordanian High Court of Justice Law No (12) of 1992, the law stipulated in Article 9 thereof the competence of the administrative judiciary to oversee the constitutionality of laws and regulations, and to cancel any act issued in accordance with the laws. This is what was stated in Paragraph (a) in Clauses 6 and 7, which states:

The court is exclusively competent to consider appeals submitted by stakeholders related to the following: Appeals submitted by any aggrieved party requesting the

cancellation of any decision or procedure under any law that violates the Constitution or any regulation that violates the Constitution or the law, as well as the appeals filed by any aggrieved party requesting the suspension of the provisions of any temporary law that is contrary to the Constitution or a regulation that is contrary to the law or the Constitution.⁸

Referring to these two clauses, we find that they enshrine a legal basis to protect the principle of legality. The administrative judiciary was allowed to oversee the legality of provisional laws (Al-Billeh, 2022c). Thus, it became possible for individuals to challenge the illegality of these laws by filing a principal lawsuit, without the need to wait for the temporary law to be applied to them (Al-Zubi, 1996).

It is noted that the competence of the administrative judiciary with regard to its control over the constitutionality of laws applies only to temporary and not to ordinary laws. Therefore, all courts of all types and degrees, and the administrative judiciary, have the power to consider ordinary laws through subsidiary argument only. If we go back to the seventh clause of paragraph (a) of Article 9, we find that it shows the control of the administrative judiciary over temporary laws and regulations that violate the Constitution and the law. This control is done by stopping the implementation of these laws (Shatanawy, 1997; Al-Billeh, 2020a).

The position of the administrative judiciary in controlling legality has evolved after the issuance of the Jordanian Administrative Judiciary Law of 2014, which replaced the Jordanian Supreme Court of Justice Law. Article (5/a/6) of the aforementioned law stipulates that:

The administrative court is exclusively competent to consider all appeals related to final administrative decisions, including: appeals submitted by any aggrieved party to request the cancellation of any regulation, instructions or decision based on the regulation's violation of the law issued according to it, the violation of the instructions of the law or the regulation issued pursuant thereto, or the decision's violation of the law, the regulation or the instructions on which it was issued.⁹

As for the existence of material facts for the issuance of temporary laws that do not tolerate delay, this indicates that the state of urgency is measured on those facts. Also, existing laws must be incapable of dealing with these conditions. When these laws are unable to cope with the circumstances, we are faced with a state of urgency, allowing the administration to issue temporary laws (Al-Billeh, 2020b). The jurisprudence of the administrative judiciary regarding its oversight of the state of urgency (objective restriction) necessary to issue temporary laws used to make this oversight the jurisdiction of the legislative authority only. This leads to a violation of the principle of legality and a violation of the rights and freedoms of individuals, given that this oversight is subsequent, that is, after the law is issued (Shatanawy, 1997).

We note by referring to the text of Article (94) that the administrative judiciary was paying attention to controlling the time limitation without the case of urgency, although the

⁸ Article 9, The (repealed) Jordanian High Court of Justice Law No (12) of 1992, the law.

⁹ Article (5/a/6), The Jordanian Administrative Judiciary Law of 2014.

state of urgency is more important and more dangerous than the time limitation (Al-Borini, 2005).

We mentioned earlier that the nature of the provisional laws is administrative acts based on the formal criterion. Referring to the principle of legality, the acts issued by the executive authority must be in accordance with the law. The aim of any administrative act must be to preserve the public interest, based on a fundamental foundation, and not be contrary to the applicable legal rules (Shatanawy, 1997).

Therefore, the administrative judiciary must oversee temporary laws as administrative acts. Even if the state of urgency is subject to the discretion of the executive authority and the administration, this discretionary authority must be subject to judicial oversight for two considerations: 1- The state of urgency is a legal state, not a political one, therefore this state is an application of the principle of legality that applies in normal and exceptional circumstances (Jamal Al-Din, 1982). 2- The consensus of jurisprudence and the judiciary is that the discretionary power must be monitored by the judiciary (Hafez, 1987).

Any act taken by the executive authority must have a reason justifying the issuance of it. This is applied to the case of urgency where there must be certain seriousness, and circumstances of urgency that justify the issuance of temporary laws. Article (94) is an exception, as it is not permissible to expand on it or make analogies with it. Resorting to this article should be within jurisprudence-approved criteria, including the existence of exceptional cases. What is meant by the exceptional case is the situation that is repeated permanently and continuously, such as disasters, epidemics, etc., and cannot be confronted. This means that the applied laws are incapable of facing emergency conditions (Al-Jamal, 2002), meaning that the administration is unable to face those circumstances according to the applicable laws, which prompts the executive authority to issue temporary laws. This means that among the matters that the court cannot extend its control over is not only the adaptation of the case of urgency, but also the inadequacy and inability of the laws applied in facing this case. Consequently, this leads to abuse of power in the event that the executive authority misuses its discretion in issuing temporary laws (Al-Hayari, 1977).

It can be said that the position of the administrative judiciary is not in line with the Constitution because Article (94) thereof stipulated the existence of a state of urgency in order for the executive authority to issue temporary laws. Therefore, the failure of the court to oversee this case constitutes a violation of the principle of legality, given that conditioning the court with the availability of a state of urgency is an administrative act (Akasha, 1998).

Moreover, both the French and Egyptian judiciary considered that the temporary laws, even if they had the force of law, are not a law, but rather ordinary administrative decisions until the legislative authority ratifies them (Tabatabai, 1991). In a ruling issued by the Egyptian Court of Cassation on Dec.22,1954, it was stated that:

Since there is no dispute regarding the permissibility of claiming the annulment of decrees by laws (urgency regulations) issued by the executive authority between sessions or during the period of dissolution, considering them as administrative

decisions, taking into account the formal criterion in the distinction between law and administrative decisions.¹⁰

It can be said that the jurisprudence of the Egyptian judiciary constitutes an essential source for the jurisprudence of the administrative judiciary in Jordan. The administrative judiciary, when supervising temporary laws, must take into account what the Egyptian judiciary has adopted in its rulings, because this leads to the protection of the public interest and the basic rights of individuals. Therefore, the administrative judiciary must extend its control over the powers of the executive authority by issuing temporary laws.

Accordingly, the state of urgency is an urgent state that must be met in order for the executive authority to issue temporary laws. The administrative judiciary must oversee the availability of this state in the event that any element in it, represented by the cause, the subject-matter, the object, and the availability of a state of urgency are disturbed.

Therefore, the failure of the administrative judiciary to monitor the availability of the state of urgency in its discretion makes those discretions unsound and logical (Al-Hayari, 1977; Isa et al. 2022).

Based on the above, the administrative judiciary must supervise temporary laws, because Parliament's oversight may sometimes be late, in terms of holding elections and convening the council. This leads to wasting the rights and freedoms of individuals (Shatanawy, 1997; Khater et al. 2022).

(b) Overseeing the Constitutionality of Temporary Laws after the Establishment of the Constitutional Court

The constitutional amendments of 2011 included the need to establish a constitutional court whose mission would be to supervise the constitutionality of laws and regulations, including temporary laws, in addition to the recent amendments to the Jordanian Constitution and the Constitutional Court Law of 2022. Article (59) of the Jordanian Constitution and its amendments stipulated that:

1. The Constitutional Court is concerned with overseeing the constitutionality of laws and regulations in force and issues its rulings in the name of the King. The rulings of the Constitutional Court shall be published in the Official Gazette within fifteen days from the date of their issuance.
2. The Constitutional Court has the right to interpret the provisions of the constitution if it is requested to do so by a decision issued by the Council of Ministers or by a decision taken by a majority of one of the two houses of parliament. Its decision shall be effective after its publication in the Official Gazette.

In fact, according to those constitutional amendments, the Jordanian Constitutional Court Law No (15) of 2012 and its amendments for 2022 were issued, which stipulated in Article (4) that: The court has the following jurisdictions:

¹⁰ The Egyptian Court of Cassation on Dec.22,2012.

- A. Supervising the constitutionality of laws and regulations in force.
- B. interpretation of the provisions of the Constitution".¹¹

Therefore, it was stated in the request for interpretation No. (11/2013) issued by the Jordanian Constitutional Court Dec.11, 2013 and published in the Official Gazette No. (5263) on Jan.2, 2014 as follows:

The court considers that the subject matter of the request for interpretation is directly related to the work and powers of Parliament as a legislative authority, which is dealt with in Articles (91) to (96) of the Constitution. Article (94/1) of the Constitution states the following: "When the House of Representatives is dissolved, the Council of Ministers, with the approval of the King, may enact temporary laws to address the following matters: Public disasters, states of war and emergencies, the need for necessary and urgent expenditures that cannot be postponed. Temporary laws that must not contradict the provisions of the Constitution shall have the force of law, provided that they are presented to Parliament at its first meeting, and it must decide on it during two consecutive ordinary sessions from the date of its referral. Parliament may pass, amend or reject these laws. If it rejects it, or if the period stipulated in this paragraph expires and it has not decided on it, the Council of Ministers must immediately declare its invalidity. From the date of such declaration, the force of law that was therein shall cease, provided that this shall not affect contracts and acquired rights. Referring to the text of Article (91) of the Constitution, we find that it states the following: "The Prime Minister presents every draft law to the House of Representatives, which has the right to accept, amend or reject the draft. In all cases, the draft is submitted to the Senate. No law is issued unless approved by both Houses and ratified by the King." The Court considers that it is clear from these texts that the Constitution entrusted Parliament (as a legislative authority) to formulate permanent laws submitted by virtue of bills from the government, as well as considering temporary and valid laws, whether by approving, amending or rejecting them. The powers of the legislative authority in this field include the right to cancel, according to a permanent law, any provision or more contained in any regular (permanent) law or temporary law - a fortiori - even if it was presented to Parliament and is still in effect; Without this practice constituting a violation of the provisions of the Constitution as long as the development, repeal or amendment of this legislation does not affect an express constitutional provision, a basic constitutional rule, or any of the principles of constitutional values. Based on the above and in response to the question posed by the Senate, Parliament may, under a permanent law, cancel one or more provisions in any temporary law, even if it was submitted to Parliament and is still in effect.¹²

However, by tracking requests for interpretation, it was stated in Request for Interpretation No. (5/2013) issued by the Jordanian Constitutional Court July 22, 2013 published in the Official Gazette No. (5233) Aug. 1, 2013 as follows:

¹¹ The Jordanian Constitutional Court Law No (15) of 2012 and its amendments for 2022 were issued.

¹² The request for interpretation No. (11/2013) issued by the Jordanian Constitutional Court Dec.11, 2013 and published in the Official Gazette No. (5263) on Jan.2, 2014.

With regard to the temporary law that did not obtain approval for a declaration of its nullity from the King after it was rejected by Parliament and the non-approval of the request to issue a declaration of its nullity submitted by the Council of Ministers to the King, the Constitutional Court decides that the temporary law may not be dealt with in this case if it is rejected by Parliament, the treatment of ordinary law, because the Parliament's relationship with the temporary law has been severed and the temporary law remains in force, contrary to the situation with ordinary laws, because the constitutional legislator did not take into account the principle of dealing with the law in the event of its rejection (discussed) for a specific case stipulated in Article (93) of the Constitution, and he did not do the same thing with the temporary law due to its special nature as it differs in its status from the general context of the laws, if the legislator had wanted it, he would have done it.¹³

Nevertheless, the constitution emphasizes the role played by the legislative authority as a natural incubator for legislation and the sole source for issuing laws "with specific exceptions in temporary laws in special cases," and the representative expressing the will of the nation. It was keen to clarify the rights of the legislative authority in the practice of legislation to the fullest extent by drawing through its texts the constitutional ways, means and mechanisms that enable this authority to perform its role without any restrictions or limitations, with clear details of the steps and mechanisms that must be taken to regulate this practice, starting with the mechanism of proposing laws that delegates ten or more members of the legislative authority to propose laws and oblige the executive authority to implement this proposal, whatever the law, including the right to propose new laws and refer them to the government to put them in the form of new laws or to amend existing laws. The legislative authority also has the right to amend new or existing legal texts, in addition to its right to reject and discuss laws, to annul provisions in laws in force or previously rejected within special assets in accordance with the constitutional powers and mechanisms established for this purpose, which include the mechanism of proposing to the government to draft laws (or abolish them) by the provisions of a new law or during the discussion of laws in general, based on the text of Article (25) of the Constitution, which makes the mandate of legislation to the king and to the legislative authority.

It is worth mentioning in this context that the government, in our case, preparing an amended draft law (for the Civil Retirement Law) in response to the King's directives contained in the statement of justifications and reasons provided for the King's refusal to declare acceptance of the nullification of the temporary law, does not at all impede Parliament from exercising its legislative rights referred to in the proposal to draft new laws, which (the government is obligated to implement by presenting legislation for this purpose) or to propose their abolition or amendment in accordance with the constitutional texts, because Parliament is the owner of the original right and the sole reference for enacting legislation and laws, amending and canceling them, and monitoring their suitability in accordance with the requirements of the public interest as long as it adheres to the stipulated provisions of the constitution. Based on the above, in response to the inquiry from the House of

¹³ Request for Interpretation No. (5/2013) issued by the Jordanian Constitutional Court July 22, 2013 published in the Official Gazette No. (5233) Aug. 1, 2013.

Representatives, the provisional law, if rejected by the Parliament as a whole pursuant to Article 94 of the Constitution, may not be treated as the ordinary bill. In light of this answer, it is not forbidden for the government to submit a new draft law to pass through the constitutional legislative stages, nor is it prohibited for the legislative authority to use its constitutional right to propose laws according to what we explained previously.

Appeal No. (6/2018) issued by the Jordanian Constitutional Court on Sept. 13, 2018 and published in the Official Gazette No. (5534) on Sept. 13, 2018 stated that:

It is clear that the appellant relies on Article (94/1) of the Constitution, which states the following: (Temporary laws that must not contradict the Constitution shall have the force of law, provided that it is presented to Parliament at its first meeting to decide on it during two consecutive ordinary sessions from the date of its referral. Parliament may approve, amend or reject it. If it rejects it or the period stipulated in this paragraph expires and no decision is made on it, the Council of Ministers, with the approval of the King, must declare its invalidity immediately. From the date of that declaration, its legal force ceases, provided that this does not affect contracts and acquired rights. This current constitutional text does not apply to the temporary general electricity law in force under appeal, perhaps because the Higher Council for the Interpretation of the Constitution, which was before the constitutional amendments published in the Official Gazette No. (5117) dated Oct. 1, 2011 possesses, according to Article (122) of the Constitution, the same powers that the Constitutional Court has now acquired, according to Article (59) of the Constitution. The Higher Council for the Interpretation of the Constitution has issued its Interpretation Decision No. (2) for 2012, which stipulates the following: (The Higher Council, after examining the text of Article (94), Paragraph (1) of the Constitution, in implementation of the constitutional jurisprudential rules that state that constitutional texts are interpreted by looking at them as one unit complementing each other, and the non-retroactivity of the constitutional texts and the direct impact of the legal rule, decides that the temporary laws that were referred to Parliament prior to the entry into force of these constitutional amendments that were implemented on Oct.1, 2011 are exempted from the application of the provisions of Paragraph (1) of Article (94) of the Constitution as amended, which requires Parliament to decide on temporary laws after the date of entry into force of these constitutional amendments, and they do not apply to the temporary laws that were referred to Parliament before the entry into force of the amendment to the Constitution for 2011. The contested law as unconstitutional issued prior to the constitutional amendments that were implemented on Oct. 1, 2011, is excluded from the application of the provisions of Paragraph (1) of Article (94) of the Constitution in its current amended form, which requires Parliament to decide on temporary laws during the two consecutive regular sessions from the date of their referral to it. The text of Paragraph (1) of Article (94), as it was in force under the constitutional amendments of 1958, is the one applicable to this law, which is contested as unconstitutional. This Paragraph did not oblige the Parliament to decide on the temporary laws presented to it within a specified period, even if more than one parliament succeeded in having them under its hand. Its text at the time was: (When Parliament is not in session or dissolved, the Council of Ministers, with the approval of the King, has the right to set temporary laws in matters that require taking necessary measures that do not tolerate delay or that require urgent expenditures that cannot be postponed. These temporary laws, which must not contradict the provisions of this Constitution, shall have the force of law, provided that they are presented to Parliament at its first meeting. The Parliament may approve or amend these laws, but

if it rejects them, then the Council of Ministers, with the approval of the King, must immediately declare them invalid. From the date of that declaration they shall cease to have effect, provided that this does not affect contracts and acquired rights. The law, which is the subject of the present appeal referred to the House of Representatives Aug.10, 2003, i.e. during the validity of Paragraph (1) of Article (94) as enforceable under the constitutional amendments of (1958) established above, does not contradict the constitutional text that was in force when it was presented to Parliament. Therefore, the contestant's criticism of this law, from this point of view, is not based on a sound basis, and it must be dismissed.¹⁴

Accordingly, there is no problem with the permissibility of repealing the temporary law or amending it with a permanent law, since the legislative authority entrusted to Parliament is the one with the original jurisdiction in legislation. This authority has the power, according to its constitutional powers, to enact, cancel or amend a law at any time without this practice constituting a violation of the provisions of the constitution, as long as this legislation, repeal or amendment does not affect a constitutional text, rule, right or principle. Its right to regulate any subject by law is an absolute right that is not restricted except by the Constitution. That is, the principle dictates that it has full and absolute discretion when exercising its competence in legislation, provided that it exercises this power within the framework of regulation and does not go beyond it to prejudice the origin of right or freedom or the principle of the subject matter of legislative regulation so that the law is not contrary to the Constitution. The reason for this is that the constitutional provisions have made the legislative authority, while it exercises its legislative jurisdiction, an absolute sovereign authority that is limited only by the limits stipulated in the Constitution. Even if the legislation it issues exceeds these limits and falls under the supervision of the Constitutional Court, it becomes subject to a ruling of unconstitutionality.

Conclusion

The political oversight exercised by the legislative authority over the issuance of laws in terms of presenting them to it in the first session was insufficient and useless. This necessitated oversight by the constitutional judiciary over the issuance of these laws, even if the executive authority had discretionary power to assess the circumstances. So, this power must be supervised by the constitutional judiciary.

In fact, the criterion adopted by the Jordanian administrative judiciary to determine the legal nature of temporary laws is an objective criterion and not a formal one. This criterion looks at the nature and content of act, whether it is legal or not. The power possessed by the executive authority to issue temporary laws is an exceptional power, and it is exercised in the event that Parliament is dissolved.

Therefore, what is meant by the phrase “the force of law” mentioned in the text of Article (94/1) of the Jordanian Constitution is force in terms of scope and not nature, although temporary laws may deal with some issues of ordinary laws and regulate these matters.

¹⁴ The Jordanian Constitutional Court on Sept. 13, 2018 and published in the Official Gazette No. (5534) on Sept. 13, 2018.

Finally, the Constitutional Court's oversight of the constitutionality of temporary laws leads to the protection of citizens' rights and freedoms. The Jordanian Constitution entrusted Parliament (as a legislative authority) with setting up permanent laws submitted by virtue of draft laws from the government, as well as examining temporary and valid laws, whether by approving, amending or rejecting them. The powers of the legislative authority in this field include the right to cancel, by virtue of a permanent law, any provision or more contained in any regular (permanent) law or temporary law, even if it was presented to Parliament and is still in force. Without this practice constituting a violation of the provisions of the Constitution as long as the development, repeal or amendment of this legislation does not affect an express constitutional provision, a basic constitutional rule, or any of the principles with constitutional values.

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