

# Judicial Structure according to the Unified Arab Law

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## **Chapter I**

### **General Provisions**

Article #1: The judicial system is independent. No entity or individual shall have power or authority over the judges save the law.

Article #2: All litigants shall be equal before the judiciary regardless of their characteristics and conditions.

Article #3: The resolutions shall be rendered in the form prescribed by the law.

Article #4: The courts shall be committed to publicize the hearings unless the law dictates otherwise. The pleadings shall be oral unless the law requires otherwise

Article #5: Legal fees and warrantees shall be nominal and consistent with the principle of free judiciary.

## **Chapter II**

### **Courts Ranks, Configurations, and Competences**

Article #6: Courts shall be composed as follows:

1. The Supreme Judicial Council in accordance with the bylaw of the judiciary
2. The Supreme Court, which consists of the Court of Cassation - Civil Department – Criminal/Penal Department - Personal Status Department
3. Courts of Appeal and Offenses
4. Courts of First Instance
5. Magistrate's Courts

6. Personal Status Court
7. Criminal Court
8. Investigation and Referral Court
9. Public Prosecution
10. Enforcement Department

Article #7: Courts of different grades shall adjudicate all submitted cases within the limits of the courts' competence, except as may be specified by special provisions.

Article #8: The law shall determine the spacial jurisdiction of the courts

Article #9: The Court of Cassation consists of three departments

First, Criminal Department

Second, Civil Department

Third, Personal Status Department

Article #10: New Departments may be created in accordance with the evolving circumstances and need of the Judiciary in each region; otherwise the Court of Cassation can be limited to 2 Departments.

Article #11: The Governing Body shall consist of three Chief Judges and two Advisers in each Department.

Article #12: The President of the Court shall administer, moderate, and oversee the affairs of the Court and shall exercise the powers and functions entrusted to him/her by the law.

Article #13: The President of the Court of Cassation shall, in the exercise of his or her functions, direct public publications to the judges containing his or her remarks following the examination of the cases before the Court.

Article #14: If one of the heads of departments is unable to carry out his or her duties for whatever reason, the highest judge, and then the oldest in the same rank, shall act on his or her behalf.

Article #15: The specialties of the Court of Cassation shall be determined by the Code of Civil Act, the Code of Criminal Procedure, and other laws.

Article #16: The Court of Cassation (Criminal Departments) shall rule in:

1. Appeal by way of cassation in the appealable judgments and resolutions issued on the penal articles in accordance with the procedures of the relevant criminal law;
2. Positive or negative conflict of jurisdiction between the courts of appeal or between courts that do not follow a single common court of a higher authority in penal articles;
3. Transfer of cases related to the penal articles and other applications within its jurisdiction under the law.

Article #17: The Court of Cassation (Civil Department) shall rule in all paragraphs in civil article 16

1. Appeal by way of cassation in the appealable judgments and resolutions issued on the civil articles in accordance with the procedures of the relevant civil law;
2. Positive or negative conflict of jurisdiction between the courts of appeal or between courts that do not follow a single common court of a higher authority in penal articles;
3. Transfer of cases in the penal articles and other applications within the jurisdiction under the law.

Article (18): The Personal Status Department shall be rule in:

1. Appeal by way of cassation in the appealable judgments and resolutions issued on the status articles.
2. Transfer cases on the personal status provisions

3. Other applications falling under its jurisdiction under the law

### **Courts of Appeal**

Article #19: The Court of Appeal shall consist of a President and two Counselors of Judges. The number of Courts of Appeal and the Departments, Judges, and Centers thereof shall be determined by a decree issued by the Supreme Judicial Council.

Article #20: A) If the President of the Court is unable to carry out his or her duties for whatever reason, then the oldest deputy shall act on his or her behalf.

(B) If one of the heads of the Appeals Department is unable to carry out his or her duties for any reason, then the highest ranking judge, then the oldest in the same rank shall assume his or her duties.

Article #21: The President of the Court of Appeal shall administer, moderate, and oversee conduct of the work therein, and may delegate some powers to a Deputy or a Chairman of its Department. He may also delegate some powers to a Deputy or a Head of Department.

Article #22: The Court of Appeal shall be competent to rule in:

1. Cases for appeal
2. Other cases that fall within its competence and jurisdiction under the law

### **Criminal Court**

Article #23: The Criminal Court shall consist of a President and two Counselors of Judges. The number of Criminal Courts and the Departments, Judges, and Centers thereof shall be determined by a decree issued by the Supreme Judicial Council.

Article #24: The Criminal Court shall have jurisdiction over crimes punishable by a penalty of more than five years, as well as appealable resolutions.

### **Civil Courts of First Instance**

Article #25: The Court of First Instance shall be composed of one judge. The number of Trial Courts and the Departments, Judges, and Centers thereof shall be determined by a decree issued by the Supreme Judicial Council.

Article #26: The Court of First Instance shall be headed by a judge assigned to administer, moderate, and oversee the conduct of the work therein.

Article #27: If the President of the Court is unable to carry out his or her duties for whatever reason, then another judge shall be delegated to act on his or her behalf.

Article #28: The Court of First Instance shall have the general jurisdiction to consider all cases for which the law has not assigned another reference.

Article #29: The Court of First Instance shall have jurisdiction over the civil and commercial which value exceeds 200 thousand Syrian Pounds.

Article #30: In the case of multiple courts of first instance in one region, the President of the first Court of First Instance shall supervise the distribution of cases to the rest of the courts, since he is oldest and his court is competent to rule in administrative, civil, and commercial cases.

### **Courts of First Instance**

Article #31: The Criminal Court of First Instance shall be competent to adjudicate criminal cases in which the penalty is greater than one year and less than five years of prison.

Article #32: The Court of First Instance shall accept an appeal unless the law dictates otherwise.

### **Magistrate's Court**

Article #33: The Magistrate's Court shall consist of one judge and the cases shall be adjudicated in the Magistrate's Court by an individual judge.

Article #34: The number of Magistrate's Courts, as well as the number of the judges, centers, and jurisdiction thereof shall be determined by a decree issued by the Supreme Judicial Council in accordance with the current need.

Article #35: A judge in the Magistrate's Court shall be appointed to administer, moderate, and oversee the conduct of the work therein.

Article #36: If the President of the Court is unable to perform his or her duties for whatever reason, that another judge shall act on his or her behalf.

Article #37: The Magistrates' Court shall have jurisdiction to consider the following cases:

Housing rent cases - Employment cases - Possession cases – In Common removal cases - Common Fund Management cases - Compensation for the damage to agricultural land and crops - Easement Cases - Border Identification cases – Distances estimation cases - Civil Status cases – Equal Pay Cases - Water Disconnection and Disinfection of Channels and Sewers Cases.

Article #38: In addition to the cases referred to in the previous article, the Magistrate's' Court shall have jurisdiction to adjudicate civil cases that do not fall within the jurisdiction of the Court of First Instance, i.e. with a value less than 200 thousand Syrian Pounds

Article #39: Appeal of resolutions issued by the Magistrate's Courts is determined by law (Civil Procedure Code)

Article #40: A Penal Magistrate's Court may be established to address punishable crimes which penalty shall not exceed one year of imprisonment, a fine, or both.

Article #41: It may be considered, under certain conditions, to assign, by virtue of a decree issued by the Supreme Judicial Council, the jurisdiction of the Magistrate's Court to the Court of First Instance.

### **Juvenile Courts**

Article #42: Juveniles courts, standing on the same level as the Courts of First Instance, are regulated by the Juvenile Offenders Act, which determines the composition, jurisdiction, and procedures of the said court.

### **Investigation and Referral**

Article #43: The investigation and referral of crimes may be carried out by a specialized entity regulated by the law, which shall determine its composition, jurisdiction, and procedures

### **Public Prosecution**

The Public Prosecution shall exercise the powers specified for it by law and in particular:

1. Ensure the application of the law;
2. Refer criminal cases and exercise the procedures thereof;
3. Follow up the implementation of penal resolutions and judgments;
4. Conduct investigations and collect evidence;
5. Express opinion and challenge the resolutions and judgments;
6. Inspect the role of detention and correctional institutions for adults and juveniles

Article #44: The public prosecution shall take into consideration the chain of authority.

Article #45: Each court shall have a public prosecutor whose functions and duties shall be determined by a specific law.

Article #46: The Public Prosecutor's Office may perform the functions of prosecution and referral (e.g. in Egypt)

### **Enforcement Department**

Article #47: (A) The Enforcement body shall regulate its procedure.

(B) The procedures of Enforcement shall ensure the stability of transactions and the establishment of a balance between the interest of the creditor in the fulfillment of his right, and the humanitarian and social considerations of the debtor.