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**Published on the website on May 2024**

**Legislative Decree No. (27) of 2002 regarding the Establishment of the Constitutional Court**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain

Having reviewed the Constitution;

Civil and Commercial Procedures Law promulgated by Legislative Decree No. (12) of 1971, as amended;

Legislative Decree No. (3) of 1972 regarding Judicial Fees, as amended;

And the Cassation Court Law promulgated by Legislative Decree No. (8) of 1989;

Upon the submission of the Prime Minister;

And after the approval of the Council of Ministers;

**Hereby Decree the following Law:**

**Part One**

**Establishment and Formation of the Constitutional Court and the Guarantees and Duties of its Members**

**Chapter One**

**Establishment and Formation of the Constitutional Court**

**Article (1)**

A constitutional court shall be established in the Kingdom of Bahrain, and shall be deemed an independent and separate judicial commission.

**Article (2)**

In applying the provisions of this Law, the word “Court” shall mean the “Constitutional Court”, and the term “Court member” shall mean the President of the Court and its members.

**Article (3)**

The Court shall be composed of a President and six members appointed by Royal Decree for a period of nine years, non-renewable.

The first formation of the Court shall be made up of the President and three members for a term of nine years, and the other three members shall be appointed for a term of six years, after which the appointment shall be made for a term of nine years.

If the seat of the President of the Court or one of its members becomes vacant due to resignation, death, health disability or any other reason, a replacement shall be appointed by a Royal Decree for a period of nine years.

**Article (4)**

Whoever is appointed as a Court member shall meet the following conditions:

a- Shall be Bahraini national with full civil capacity, and it shall be permissible, as an exception to this condition, to appoint someone holding the nationality of one of the Arab countries.

b- Shall be of good conduct and reputation.

c- Shall be of no less than forty full years.

d- Shall have a degree in law and at least fifteen years of experience in legal matters.

**Article (5)**

The President of the Court and its members shall, prior to assuming their duties, take the following oath before the King:

(( I swear by God the Almighty to respect the Constitution and the Law and to rule with justice )).

**Article (6)**

The Court shall have a General Assembly composed of all its members, which shall be competent, in addition to what is provided for in this law, to consider matters related to the Court's system and internal matters, and all the affairs of its members.

Its opinion shall be taken on the draft laws relating to the Court.

**Article (7)**

The General Assembly shall meet at the invitation of the President of the Court, and its convening shall not be valid except in the presence of a majority of the members.

The General Assembly shall be presided over by the President of the Court, and in the event of the President’s absence or if there is an impediment, the presidency shall be for the next one of the Court members according to the order specified in the Royal Decree promulgated for their appointment.

Decisions of the Assembly shall be issued by the absolute majority of its present members, and in case of a tie, the side of the President shall prevail.

**Article (8)**

The Court shall have a General Secretariat consisting of a Secretary General appointed by Decree and a sufficient number of employees. The President of the Court shall have over them the powers of the Minister prescribed in laws and regulations.

**Chapter Two**

**Guarantees and Duties of Court Members**

**Article (9)**

Court members shall not be subject to dismissal, nor shall they be transferred to other positions without their consent.

**Article (10)**

The salaries and allowances of the President and Court members shall be specified by a Royal Decree.

**Article (11)**

A Court member shall not combine its membership with the membership of the Shura Council, the Council of Representatives, the Municipal Council, public positions or any other profession.

**Article (12)**

It shall not be permissible to assign or second a Court member to any entity whose nature of work conflicts with the position of the Court, as determined by the General Assembly of the Court.

**Article (13)**

If a Court member has previously expressed an opinion on a matter before the Court, he shall notify the Court of this and not participate in the deliberation and judgement.

**Article (14)**

The provisions prescribed in the Civil and Commercial Procedure Law shall apply in regard to the invalidity of a Court member, his removal, recusal and litigation.

The Court shall decide on the recusal request of one of its members and on the lawsuit of disputing it with all its members, with the exception of the member concerned with the request or lawsuit and whoever has an excuse. If the votes are equal, the side of the President shall prevail.

The recusal or dispute of all or some of the Court members shall not be accepted so that the number of the rest of them is less than five.

**Article (15)**

Except as provided for in this Chapter, all guarantees, privileges, rights and duties prescribed for the judges of the Court of Cassation shall apply in regard to the Court members.

**Part Two**

**Competences and Procedures**

**Article (16)**

The Constitutional Court shall have exclusive jurisdiction to adjudicate disputes concerning the constitutionality of laws and regulations.

**Article (17)**

The King shall have the right to refer to the Court such draft laws as he deems appropriate prior to promulgating them, in order to determine their conformity with the Constitution.

**Article (18)**

Disputes to oversee laws and regulations’ constitutionality shall be raised as follows:

a- At the request of the Prime Minister, the Speakers of the Shura Council or the Council of Representatives.

b - If a court while considering a lawsuit, finds that a provision in a law or regulation that is necessary to resolve a dispute is unconstitutional, then the court shall suspend the lawsuit and refer the files, without fees to the Constitutional Court to decide on the constitutional issue.

c - If one of the litigants pleads, during the examination of a lawsuit before a court, the unconstitutionality of a text in a law or a regulation, and this court considers the seriousness of the plea, it shall postpone the consideration of the lawsuit and set for the one who raised the plea a date not exceeding one month to file a lawsuit in that regard before the Constitutional Court. If the lawsuit is not filed on the specified date, the plea shall be considered as though it had never been filed.

**Article (19)**

The decision promulgated to refer to the court or the statement of claim filed with it, in accordance with the provision of the preceding Article, shall include a demonstration of the challenged text as unconstitutional, the constitutional text alleged to be in violation of it, and the aspects of the violation.

**Article (20)**

The bills submitted to the court shall be signed by an attorney acceptable to appear before the Court of Cassation and accompanied by a power of attorney.

**Article (21)**

The General Secretariat shall register referral decisions, lawsuits and requests received by the Court on the day they are received or submitted in a register designated for that purpose.

The Secretary General of the Court shall notify those concerned of the decisions or lawsuits provided for in the preceding Paragraph within fifteen days from that date.

The government shall be considered a concerned party in constitutional lawsuits.

**Article (22)**

Whoever receives a notification of a referral decision or a lawsuit shall, within fifteen days from the date of his notification, deposit with the Court a memorandum of his observations accompanied by documents.

His litigant shall be entitled to respond to this with a memorandum and documents within the fifteen days following the expiry of the deadline set out in the previous Paragraph.

If the litigant uses his right of reply, the former shall be able to respond with a memorandum within the next fifteen days.

**Article (23)**

The Secretariat General shall not, for any reason, accept memoranda or papers after the lapse of the deadlines specified for their submission, and it shall draft a minutes proving the date of their submission, the name and capacity of their submitter, and the reason for their rejection.

It shall be permissible for the President of the Court, for acceptable reasons, to decide to accept the aforementioned memoranda and papers.

**Article (24)**

After the expiry of the dates prvided for in Article (22) of this Law, the Secretariat General shall hand over the lawsuit file to the President of the Court, who determines the date of the hearing in which the lawsuit or request is considered. The Secretary General shall notify the concerned parties by registered letter of the date of the hearing at least ten days prior to its convening.

**Article (25)**

The Court shall decide on the lawsuits before it after having reviewed the papers without an oral pleading, unless the Court deems it necessary to make an oral pleading, it shall have the right to hear the attorney of the parties to the dispute.

It shall have the right to authorize them to file memoranda on the dates it specifies.

**Article (26)**

The rules of presence and absence prescribed in the Civil and Commercial Procedures Law shall not apply to lawsuits and requests submitted to the Court.

**Article (27)**

Without prejudice to any law that exempts judicial fees, a fixed fee of one hundred Dinars shall be applicable on lawsuits submitted to the Court.

The rules prescribed in Legislative Decree No. (3) of 1972 regarding Judicial Fees shall apply on these fees.

**Part Three**

**Judgements and Decisions**

**Article (28)**

The convening for the Court shall not be valid except with the presence of its President and at least four members. Its judgements and decisions shall be issued reasoned by the majority of the opinions of attendees, and in the event of a tie, the side of the President shall prevail.

**Article (29)**

The Court shall decide on all subordinate matters.

**Article (30)**

The judgements and decisions of the Court shall be final and not subject to appeal.

**Article (31)**

The judgements and decisions of the Court promulgated in constitutional matters shall be binding on all State authorities and on all, and shall be published in the Official Gazette within no more than fifteen days from the date of their issuance.

The judgement issued on the unconstitutionality of a text in a law or a regulation, in all cases, shall have an immediate effect, and the text declared unconstitutional shall not be applied starting from the day following the publication of the ruling, unless the Court determines a different date.

If the judgement of unconstitutionality refers to the text of a criminal offence, then the incriminating judgements issued in regard to that text shall be null and void. The Secretary General shall notify the Public Prosecutor of the judgement immediately upon its pronouncement in order to implement what it requires.

**Article (32)**

The Court shall exclusively adjudicate all disputes related to the implementation of its judgements, and the filing of a dispute shall not result in the suspension of the judgement's execution unless ordered so by the Court.

**Article (33)**

Except as provided for in the law herein, the rules established in the Civil and Commercial Procedures Law shall apply to the referral decisions to the Court, the lawsuits filed before it, and the judgements and decisions promulgated by it, provided that they shall not conflict with the nature of the Court's jurisdiction and the situations before it.

**Article (34)**

The Prime Minister and the Ministers -each within his jurisdiction- shall implement the provisions of this Law, and it shall come into force from the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Prime Minister**

**Khalifa bin Salman Al Khalifa**

**Issued at Riffa Palace:**

On: 7 Rajab 1423 A.H. Corresponding to: 14 September 2002