

# Research Paper

# 2024

**Research paper**

## The New Legal Challenges Facing Jordanian Civil Society in 2024

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### Phenix for Sustainable Development

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## General Context

Civil society in Jordan continues to face ongoing challenges due to legislative and administrative developments that negatively impact its operations. The Associations Law No. 51 of 2008 and its amendments contain several loopholes that limit the freedom and independence of civil society organizations in Jordan.



The law imposes strict administrative and financial restrictions, such as prior approvals for registration and foreign funding. Civil society has long advocated, through continuous dialogues and memorandums, for the adoption of the notification-based registration principle, the abolition of prior censorship and approval requirements, and the creation of a legal environment that guarantees the independence of associations and protects them from unwarranted interference.

In 2024, new legislation introduced further restrictions on existing regulations concerning foreign funding, such as the Planning and International Cooperation Law, and a circular issued by the Central Bank to banks operating in the Kingdom regarding the procedure for obtaining approval for foreign funding provided to non-profit associations, companies, and cooperative unions.

This report will highlight the negative implications of these regulations on the work of civil society and its ability to effectively implement its developmental and human rights projects.

## Methodology for Preparing the Report

This report was developed based on a review of the 2024 Planning and International Cooperation Law and the circular issued by the Central Bank to banks operating in the Kingdom on the procedure for obtaining approval for foreign funding provided to non-profit associations, companies, and cooperative unions. Discussion sessions were held with diverse groups of civil society organizations across the governorates of the Kingdom to identify the constraints faced by organizations due to this legislation.

# First: The Planning and International Cooperation Law

The 2024 Planning and International Cooperation Law <sup>1</sup> designates the Ministry of Planning as the primary government body responsible for coordinating and monitoring foreign funding directed to non-profit associations, companies, and cooperative unions. The law reinforces existing restrictions concerning foreign funding, requiring prior approvals from the Prime Minister's Office for any financial or in-kind grants of a developmental nature received by civil society organizations.

The scope of these restrictions has expanded as follows:

## 1. Philosophy of the Law in Dealing with Civil Society

The Planning Law does not distinguish between civil society organizations and government institutions or ministries, placing them all in the same category. It prohibits any ministry, public or private institution, association, or non-profit company from accepting any form of international financial, technical, or in-kind assistance without prior approval from the Council of Ministers, upon the recommendation of the relevant minister.

This approach is inconsistent with the concept of civil society independence, as it conflates the developmental and human rights efforts carried out by these organizations, which typically operate within flexible and decentralized structures, with the approaches adopted by government agencies and ministries, which are usually based on hierarchical and bureaucratic structures.

Additionally, civil society organizations are often closer to individuals and work directly with them, allowing them to understand their needs and provide appropriate support. In contrast, government entities generally interact with citizens on a broader level through the provision of public services and the implementation of policies.

## 2. Absence of Clear Criteria for Foreign Funding Approval

The Planning Law does not establish any clear criteria or regulations for the acceptance or rejection of foreign funding, despite numerous complaints regarding the rejection of funding requests without clear reasons. Additionally, the law does not provide specific timeframes for reviewing foreign funding requests.

On the contrary, linking the approval of foreign funding to the Council of Ministers' approval, upon the recommendation of the Minister of Planning, indicates potential further delays for civil society organizations, effectively depriving them of their right to access financial resources.

## 3. Requirements for Approval of Development Projects

The Planning Law introduces a new restriction that was absent in previous legislation by requiring the approval of the Council of Ministers, upon the recommendation of the minister, for any developmental project undertaken by ministries, public or private institutions, associations, or non-profit companies. This provision is difficult to implement in practice, as it demands significant resources from the ministry to oversee it. It reflects unprecedented bureaucracy and threatens the developmental efforts that civil society organizations have worked to advance for years.

## 4. Expansion of the Council of Ministers' Oversight Powers

The law requires the approval of the Council of Ministers for financial, in-kind, and technical assistance, which represents a significant expansion of the Council's oversight powers over the activities of civil society, particularly regarding the approval of technical assistance. This provision is vague and poorly defined in its scope and application. Furthermore, the law does not explicitly mandate the adoption of consultative mechanisms for setting national priorities, thereby allowing the current approach to persist, effectively excluding civil society from the planning process, priority setting, and strategy formulation. Instead, the provision gives greater weight to the Ministry of Planning.

## Second: New Regulations on the Mechanism for Obtaining Approval for Foreign Funding

The Central Bank issued a circular to banks and electronic payment and transfer companies operating in the Kingdom, outlining the procedure for obtaining approval for foreign funding provided to non-profit associations, companies, and cooperative unions. The circular included several key points, most notably requiring branches of foreign associations to refrain from accepting any funding, assistance, donations, or gifts from non-Jordanian sources without the approval of the Council of Ministers, the Planning and International Cooperation Law and the Associations Law.

It also stated that accepting donations via foreign cards processed through point-of-sale devices or electronic payment gateways is subject to the Council of Ministers' approval for each funding or donation transaction.

Additionally, the mechanism defined the notification of funding as the communication from the relevant minister to the Council of Ministers requesting approval for foreign funding, which must meet all administrative, technical, and financial requirements<sup>2</sup>.

These instructions conflict with the opinion issued by the Legislation and Opinion Bureau<sup>3</sup>, which states that branches of foreign associations are permitted to receive funding directly from their parent associations without requiring prior approval, as long as the funding is used to achieve the association's licensed objectives. This legal and legislative contradiction results in ambiguity, potentially leading to legal disputes or increasing confusion over the implementation of the regulations.

The impact of these instructions is a delay in receiving funding, hindering the ability of associations to implement their projects on time and diminishing operational efficiency. The increased procedural

burdens due to the complexity of bureaucratic processes, which now require the involvement of multiple government entities, demand additional time and resources and increase the burden on associations. Furthermore, these restrictions could affect the independence of associations, limiting their ability to make flexible financial decisions that align with their needs and respond to emergencies.

It can be argued that the Jordanian government aims to enhance transparency in the flow of foreign funds to ensure their compliance with national laws and objectives and to prevent their use for undesirable political or social purposes. However, these new instructions and procedures may negatively impact organizations, such as delays in funding, increased administrative burdens, and reduced independence.

There are more flexible alternatives, in which the government could substitute prior approval with a post-compliance mechanism that allows organizations to submit relevant financial reports related to funded projects and activities. This would help maintain the effectiveness of international organizations' work and the continuity of their contributions to humanitarian aid and sustainable development efforts in Jordan.

# Recommendations

## 1. Abolish the Requirement for Prior Approvals

The condition of obtaining prior approval from the Council of Ministers for foreign funding should be reevaluated and substituted with a notification-based system. This would allow associations to submit their necessary information transparently without hindering the implementation of projects.

## 2. Establish Clear Criteria for Acceptance or Rejection

Clear and transparent criteria should be developed for the acceptance or rejection of foreign funding requests. Decisions should not rely on ambiguous discretion. The government should be required to provide written justifications for any rejection.

## 3. Revise the Philosophy of the Planning Law

The Planning Law should explicitly recognize the independence of civil society as a non-governmental sector with its own developmental and human rights roles. Associations should not be treated in the same manner as government institutions or for-profit companies.

## 4. Adopt a Flexible Legal Framework

Administrative and financial procedures should be streamlined to align with the nature of associations, which rely on flexibility and rapid responses to the needs of targeted groups.

## 5. Replace Prior Oversight with Post-Compliance Monitoring

Transparency can be enhanced by requiring associations to submit periodic financial and technical reports on funding sources and their use, without the need for prior approval of every funding transaction.

## 6. Independent Verification Mechanisms

A neutral mechanism should be established to verify the legitimacy of foreign funding after it has been received, ensuring compliance with national laws and transparency standards, without interfering with the independence of associations.

## 7. Enhance Transparency Through Digital Platforms

Develop shared digital platforms between the government and civil society that allow for easy documentation of funding requests and the submission of financial reports, while minimizing bureaucratic complexities.

## 8. Unify Legal Texts

Conflicting provisions between the Associations Law, the Planning Law, and the Central Bank's circular should be harmonized to ensure clear legal frameworks and prevent disputes that could hinder the work of associations.

## 9. Review the Central Bank's Circular

The Central Bank's circular regarding the mechanism for obtaining approval for foreign funding should be reviewed to align with national laws and opinions of the Department of Legislation and Opinion, to facilitate the transfer and receipt of foreign funding.

# References

<sup>1</sup> Planning and International Cooperation Law Article (10) year 2024, Jordan

<sup>2</sup> The Central Bank Circular No. 18/13469/3, dated August 20, 2024

<sup>3</sup> Legislation and Opinion Bureau, Letter No. (D, T 1/1/25), dated January 28, 2020



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