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Urgent government decision on “old rent” ... includes increase and eviction



The Council of Ministers, in its Wednesday meeting chaired by Prime Minister Dr. Mustafa Madbouli, approved a draft law on some provisions for vacating premises rented out to legal persons for non-residential purposes.

The first article specified the scope of the draft law, which was limited to places leased out to legal persons for non-residential purposes, in accordance with the provisions of Law No. 49 of 1977 regarding renting and selling premises, and regulating the relationship between the lessor and the lessee; and Law No. 136 of 1981 regarding some provisions on the lease and sale of

premises, and regulating the relationship between the lessor and the lessee, unless the two parties agree otherwise.

[Link to the News Story](#)

Our Views

The “old rent” law has been a real obstacle over the past years. On the one hand, tenants refuse to raise the rental value. On the other hand, we find that the rental value set according to this system is unfair and does not give the owner his due ownership right. Many proposals have been submitted by many parties during the past years to develop radical solutions to this problem. It is worth noting that the old rental law is divided into two main parts: Rent for residential purposes and rent for non-residential purposes, for natural and legal persons.¹ However, the amendments discussed in the news report are limited to places rented by legal persons for non-residential purposes only, without addressing places rented out for residential purposes. In fact, the latter constitutes the most difficult obstacle to solve, as it affects many families. The total number of rented units according to the old rent law is about 3 million, according to the

¹ A legal person means associations, governmental and non-governmental bodies, companies, banks and the like, renting a place or property for other than residential purposes, such as administrative or service purposes. The natural person is the human being, and his legal person is decided upon by birth, according to which he can acquire rights and assume obligations.

statements of the Undersecretary of the Housing Committee in the House of Representatives. Therefore, the limited amendments hinder the achievement of justice and equality.

Proposing a draft law by the Council of Ministers in any part of this thorny issue is a positive step in itself to provide solutions to this problem, but it opens the door to some specific questions:

- 1- Why was the proposed amendment restricted to legal persons only, and did not include natural persons? Why did it not address the rented premises for residential purposes, which is the most difficult and complex problem?
- 2- What are the criteria based on which the eviction period was determined? Were specialists and experts consulted to set these standards? Was a societal dialogue conducted bringing together representatives of stakeholders and legal experts?
- 3- What are the bases on which the rental value was determined? To what extent were the current market value or geographic location used? The market value and geographical location play a key role in determining the

rental value fairly, the idea of “quintuple value” may sometimes be unfair to owners.

4- How will the provisions of this law be applied in practice?

The details of the executive regulations can impede the implementation of the law, especially if the body responsible for implementation is the same as the body entrusted with oversight.

5- What about the lease contracts in effect prior to the date of implementation of this law? How will they be dealt with? Will there remain units subject to the law before its amendment and others subject to it after amendment? If so, will this result in duplication of the system that leads to the spread of corruption and creates an environment that repels business?

6- Overall, to what extent was the cost-benefit analysis used in developing this proposal – with identifiable winners and losers - and an explanation of the size of the benefit and the damage caused to each? And how will losers be compensated?.

7- Finally, how constitutional is the proposal? and is it consistent with the ruling of the Supreme Constitutional Court issued in 2018, which has already been implemented after the approval of the Council of Ministers during its meeting on Wednesday, November 24, 2021? This proposed amendment leads to significant confusion, and would disrupt the process of evictions.

- As mentioned earlier, although these amendments are a positive step, they are absolutely not sufficient to solve the problem of the old rental law in a fundamental way, as the biggest problem remains.

Worthy of Note:

The ruling of the Constitutional Court provides for the immediate termination of the old lease contracts in accordance with the first paragraph of Article 18 of Law 136 of 1981, but does not allow for the owner or the lessor to request vacating the place even if the term of the contract has expired. The proposed amendment to the law mentioned in the news gives a five-year period for eviction, hence the suspicion of unconstitutionality.

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