

CHECKLIST OF ISSUES ON ENFORCEMENT¹

Responses from Jordan

Civil and Administrative Procedures and Remedies

(a) Civil judicial procedure and remedies

1. Specify the courts which have jurisdiction over IPR infringement cases.

Civil Liability

Generally, civil matters fall within the jurisdiction of Magisterial Courts for claims of less than JD750, and the Courts of First Instance for claims of that amount or higher unless otherwise specified in the law. This rule applies for all intellectual property cases with the exception of civil matters arising under the Copyright Law, which fall within the jurisdiction of the Courts of First Instance.

Appeals from the Magisterial Court in civil matters are heard by the Court of Appeal; appeals from the Court of First Instance are heard by the Court of Appeal. Appeals from the Court of Appeal are heard by the Court of Cassation which is the final stage of litigation in the country.

Criminal Liability

As a general rule, only the Patent Law, the Trademark Law and the Copyright Law provide for criminal penalties. Moreover, as a general rule, and unless otherwise specified, the Magisterial Courts have jurisdiction in cases carrying a penalty of up to two years imprisonment. Therefore, since an infringement under the Patent and Trademark Laws carries a maximum imprisonment sentence of one year, the Magisterial Courts have jurisdiction in such cases. Under the Copyright Law, the Court of First Instance has jurisdiction in all criminal matters regardless of the penalty.

Appeals from the Magisterial Court in criminal matters are heard by the Court of Appeal; appeals from the Court of First Instance are heard by the Court of Appeal. Appeals from the Court of Appeal are heard by the Court of Cassation which is the final stage of litigation in the country.

Special Cases

Generally, civil cases in conjunction with a criminal case fall under the rules specifying jurisdiction for criminal cases. Moreover, counterpart claims of an existing case are subject to the rules of jurisdiction of the original case.

¹ Document IP/C/5.

2. Which persons have standing to assert IPRs? How may they be represented? Are there requirements for mandatory personal appearances before the court by the right holder?

General Rules

As a general rule, under the Code of Civil Procedure, any person who has an interest protected by the law and stands to gain from an action has the right to assert an action in infringement and to oppose or cancel the registration of an intellectual property right.

In courts other than Magisterial Courts, parties are required to be represented by a lawyer. In Magisterial Courts parties may be represented by themselves or through a lawyer. Juridical persons may be represented by their designated agent or by a duly authorized lawyer. Such rules apply in addition to the specific rules stated hereunder.

Specific Rules

Under the Copyright Law, an infringement action may be instituted by the rightholder or the heirs or successor thereof.

Under the Trademark Law, an infringement action may be instituted by the owner of the trademark registered in the Kingdom.

Under the Patent Law, an infringement action may be instituted by the patent owner.

The Integrated Circuits Law provides the right of action for the rightholder.

The Geographical Indications Law provides the right of action for the party who stands to gain from the action.

The Trade Secrets and Unfair Competition Law provides the right of action for any party who stands to gain from the action in cases of unfair competition, and for the rightholder in a trade secret action.

Under the Industrial Designs Law, infringement action may be instituted by the owner of the industrial design.

Oppositions and Cancellations

Oppositions and cancellation actions are available in trademarks, patents, industrial designs and integrated circuits. The general rule is that any person can oppose the registration of any other of the above-mentioned rights and only interested parties (rightholders) have the right to request cancellation or annulment of a registered right.

3. What authority do the judicial authorities have to order, at the request of an opposing party, a party to a proceeding to produce evidence that lies within its control?

Articles (20), (21), (22), (23) and (25) of the Evidence Law and Articles (100) and (107) of the Civil Procedures Law empower the court, upon request of the opposing party, to order the production of documents which lie within the control of the other party.

4. What means exist to identify and protect confidential information brought forward as evidence?

The courts, within their discretion, have the right to hold cases behind closed doors. This discretion may extend to cases where there is need to present confidential information especially that the courts are bound to observe the Trade Secrets Law.

Moreover, Article (34) of the Patent Law provides:

- I- The court may require the defendant in any civil procedure regarding an infringement of the rights of the patentee provided for in this law, to prove that the process of producing his product which is identical to the product produced by the patentee, is different from the process protected by the patent, if the production is made without the patentee's consent and if there is a substantial likelihood that the identical product is made by the process protected by the patent, and the patentee was unable through reasonable effort to determine the process actually used.
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 - 1 - The court shall take into account the legitimate interests of the defendants to protect their industrial and commercial secrets when requesting for evidence according to Paragraph A of this Article.
 - 2 - If such secrets are disclosed during a lawsuit filed by the plaintiff and based on an unjust claim, the defendant may claim compensation for damages by virtue of a court's decision.

5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudential, for their use;

- **injunctions;**
- **damages, including recovery of profits, and expenses, including attorney's fees;**
- **destruction or other disposal of infringing goods and materials/implements for their production;**
- **any other remedies.**

(1) Injunctions

Intellectual property laws provide for provisional as well as permanent remedies against infringement. For provisional measures see the answer to the appropriate question below.

(2) Damages, including recovery of profits, and expenses, including attorney's fees

(a) General provisions

As a general rule, civil infringement of intellectual property rights, misuse of a trade secret, and acts of unfair competition are characterized as torts. As such they are subject to the following provisions:

Article (48): Whoever shall be subject to unlawful assault in respect of any right which attaches to his person shall be entitled to apply for the abatement of that assault together with compensation for any damage he may have suffered.

Article (49): Whoever is disputed by others in the use of his name or surname or both without justification and whoever suffers usurpation of his name or surname or both without legal ground, shall be entitled to apply for the abatement for that assault together with compensation for any damage he may have suffered.

Article (66):

1. Liability for damage shall be due from the person who exercises his right unlawfully.
2. The exercise of the right shall be unlawful:
 - i. if there is intent to aggress;
 - ii. if the interest to be achieved from the act is unlawful;
 - iii. if the benefit therefrom is disproportionate with the damage inflicted on others;
 - iv. if it exceeds custom and usage.

Article (256): Every injurious act shall render the person who commits it liable for damages even if he is a non-discerning person.

Article (257):

1. The injurious act may be direct or causative;
2. And if it is direct the damages shall be due unconditionally and if it is causative it shall be subject to the proof of trespass or intent or that the act led to the injury.

Article (258): If the person who commits the act and the person who causes it are present responsibility shall attach to the former.

Article (259): If any person deceives another he shall be liable for the damages resulting from that deceit.

Article (263):

1. The act shall be attached to the person who commits it and not the person who orders it unless he is under duress provided that the material duress in actual disposition shall solely be the obligation duress.
2. And yet a public official shall not be responsible for his act causing damage to others if he commits it in compliance with an order from his supervisor when compliance with such order was obligatory or he believed that it was obligatory and he proves that he believed that the act he committed was lawful and his belief was based on reasonable grounds and that in committing that act he exercised diligence and care.

Article (266): Damages shall in all cases be estimated by the amount of the damage inflicted on the injured person and his loss of profit provided that the same shall be the natural result of the injurious act.

Article (267):

1. The right to damages shall also include moral damage, so any trespass on another's liberty, honour, reputation, social status or financial standing shall render the person who commits the trespass liable for damages.

2. And damages may be awarded to spouses and close relatives in the family for the moral damage inflicted upon them by the death of the injured.
3. And liability for damages for moral damage shall not devolve upon others unless their amount is defined by virtue of a contract or a final judicial decision.

Article (268): If the Court cannot finally decide the extent of damages it may preserve for the injured person the right to apply for reconsideration of the estimation within a limited period of time.

Article (269):

1. Damages may be subject to payment by instalments and they may be a fixed income and in these two cases the debtor may be obliged to provide a guarantee for an amount estimated by the court. And damages shall be estimated in money but the court may subject to the circumstances and on the application of the injured person order restoration to the former position or decree by way of damages the execution of a certain matter attached to the injurious act.

Moreover, and as a general rule, the Code of Civil Procedure provides that, along with the final decision, the court shall decide to compensate the litigant in favour of which the verdict was issued, for the fees and expenses of the lawsuit and the procedures through it. The Court may also decide during the course of the lawsuit, the expenses of any specific petitions or session when requested by any of the parties without prejudice to any decision that might be issued later on with regard to expenses. Compensation for fees and expenses of a counter-claim shall be decided in the same way it is decided in an original claim. In addition to fees and expenses of different kinds, the court may decide on compensation for fees of the attorney from the litigant against whom the decision was issued.

(b) Specific provisions

(i) Copyright Law

The Copyright Law provides that "where any of the rights conferred on the author in relation to his work under this Law have been infringed, the author shall be entitled to fair compensation. In calculating the amount of the compensation, the author's cultural standing, the literary, scientific or artistic value of his work, and the profit made by the person committing the infringement through exploitation of the work would all be taken into consideration. The compensation awarded to the author shall be deemed a privileged debt over the net sale price of the articles used in the infringement, and over the amounts seized for action.

The court may also decide, upon the request of the ruled for party, to publish its judgement in one or more daily or weekly newspapers at the expense of the losing party.

(ii) Trademark Law

The owner of an unregistered mark cannot claim damages in Jordan except for a well-known mark which is used in Jordan.

The other intellectual property laws do not have specific provisions for damages.

(3) Destruction or other disposal of infringing goods and materials/implements for their production; and other remedies

(a) Copyright Law

The Copyright Law provides that the court may, upon a petition by the rightholder, or any heirs thereof, or successors in title, which can be filed before, upon, or after filing the lawsuit, take any of the following measures, with respect to any work in which the copyright or any of the rights stated in Article (23) of this law have been infringed, provided that the petition contains a detailed and comprehensive description of the work:

- cease the infringement upon a work or any part thereof;
- seize the work, copies and photocopies thereof, as well as the materials used in reproducing it, provided that such are not useful for any other purpose;
- impound the revenues derived from exploiting a work that has been published through public performance.

Moreover, under the Copyright Law, the court may, at the request of the author or any successors thereof, order the destruction of the copies or reproductions of the work that has been published unlawfully, and also of the material used in the publication thereof provided that the said equipment is not fit for any other use. The Court may also, as an alternative to the destruction thereof, order the features of the copies, reproductions, and equipment to be altered, or order them to be rendered unfit for use. The Court may also order the confiscation and sale of the copies or reproductions of the work and of the material used for the reproduction thereof, as a means of providing fair compensation to the prejudiced author as an alternative to the destruction of the said copies and reproductions, the alteration of the features thereof or the destruction of the said material.

The court may order that any work that has been the subject of a copyright infringement be restored to its previous state by modification, deletion or any other means.

(b) The Trademark Law, the Patent Law, the Industrial Designs Law, the Integrated Circuits Law, the Unfair Competition and Trade Secrets Law, and the Geographical Indications Law

The rightholder, before, upon, or after filing a suit for an infringement of any of the above rights, may petition the court for the following, provided that the

petition is attached with a bank guaranty or a cash deposit accepted by the court:

- cease the infringement;
- place a provisional seizure on the products subject to infringement wherever found;
- preserve the evidence related to the infringement;
- order the seizure of the products, tools, and main materials used in manufacturing the infringing product, or used in the infringement, or resulting therefrom. The court may also order destruction of such products, tools and materials, or use of such outside the channels of commerce.

6. In what circumstances, if any, do judicial authorities have the authority to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the goods of services found to be infringing and of their channels of distribution?

As a general rule, the plaintiff has to prove his case. However, the courts, in their discretion, may direct the defendant to provide any information relevant to the case, but cannot compel the defendant to provide the information.

7. Describe provisions relating to the indemnification of defendants wrongfully enjoined. To what extent are public authorities and/or officials liable in such a situation and what "remedial measures" are applicable to them?

As a general rule, any person who abuses another's right is liable to compensate. This applies to clearly frivolous litigation.

Moreover, disciplinary measures are also applicable against government officials and lawyers who do not carry out their duties in accordance with laws and the code of ethics.

Under all intellectual property laws, a petition for provisional measures, including a request to suspend clearance of goods from customs, is to be filed together with a monetary guaranty against any damages that may be sustained by the defendant, if the petitioner proves to be unjustified in his claim or if the petitioner fails to commence an action on the merits within 8 days.

As for the criminal and civil liability of public authorities, the Criminal Code provides that a person shall not be liable for any act which that person undertakes in compliance with the law or with an order from a competent authority unless that order is without a legal basis. Moreover, the Civil Code provides in Article 263 that a public official shall not be responsible for his act causing damage to others if he commits it in compliance with an order from his supervisor if compliance with such order was obligatory, or he believed that it was obligatory, and if he proves that he believed that the act he committed was lawful and his belief was based on reasonable grounds, and if in committing the act he exercised diligence and care.

As for the responsibilities of different departments, the Customs Law provides that the Customs Department shall not be liable to compensate the importer or the owner of the goods for any injuries resulting from suspension of release and clearance of the goods. Similarly, judicial authorities are not subject to liability for actions carried by them.

8. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

Cost of legal proceedings is governed by the Court Fees Regulation.

(1) Fees for civil cases

(a) Court of First Instance

Court fees are calculated as a percentage of the value of the case. These are the total of 2% of the first 10,000, 3% of the second 10,000 and 1% of each additional 10,000. The fees are capped at 1,200 JDS. The original fee is subject also to an additional fee of 10%. There is also a 6.8 JD fee to lodge the lawyer's power of attorney. Any document presented in a case is subject to a fee of 0,3% of its value in revenue stamp.

(b) Court of Appeal and Court of Cassation

Court fees are calculated as a percentage of the value for the disputed amount, which is subject to the challenge or appeal.

(c) Magisterial Courts

Court fees are 3% of the value of the case not to exceed 25 JD. In addition to the 10% additional fee and the fee for lodging the power of attorney.

(2) Criminal cases

The fees for criminal cases are negligible.

(3) Duration

There are no definite duration or limits for regular legal proceedings. However, for the duration of provisional measures, see below.

(4) Oppositions and cancellations

The fees for oppositions and cancellations of the different intellectual property rights are still being drafted.

(5) Appeals to the High Court of Justice

Fees for appeals to the High Court of Justice are determined by the Chief Justice with a lower limit of 30 JD and an upper limit of 300 JD.

(b) *Administrative procedures and remedies*

9. Reply to the above questions in relation to any administrative procedures on the merits and remedies that may result from these procedures.

None of the measures referred to in the above questions, except for provisional measures (see below) may be taken at the administrative level.

Provisional Measures

(a) Judicial measures

10. Describe the types of provisional measures that judicial authorities may order, and the legal basis for such authority.

All intellectual property laws provide for provisional measures that may be taken by a court of law upon petition of the rightholder or successor thereof.

In the case of copyright, the measures are the following:

- ceasing of infringement of a work or any part thereof;
- seizing the work, copies and photocopies thereof, as well as the materials used to reproduce it, provided that such are not useful for any other purpose;
- impounding the revenues derived from exploiting a work that has been published through public performance.

As for the Trademark Law, the Patent Law, the Industrial Designs Law, the Integrated Circuits Law, the Unfair Competition and Trade Secrets Law, and the Geographical Indications Law, the following rules apply.

Prior to, or upon or after filing a suit for an infringement of any of the above rights, the rightholder may petition the court for the following, provided that the petition is attached with a bank guaranty or a cash deposit accepted by the court:

- ceasing the infringement;
- placing a provisional seizure on the products subject to infringement wherever found;
- preserving the evidence related to the infringement.

11. In what circumstances may such measures be ordered *inaudita altera parte*?

All intellectual property laws permit the order of such measures *inaudita altera parte*. Generally, such laws provide that in cases where any delay is likely to cause irreparable harm to the rightholder, or where there is a demonstrable risk of evidence related to the infringement being lost, the court may take any of the measures provided in the law on a provisional basis without notifying the defendant, and in absence thereof. The injured parties shall be notified of the measures taken by the court as soon as the measure is executed. The defendant shall have the right to request a hearing within a reasonable period of time after being notified of the measures taken. At the hearing, the court shall decide whether the provisional measure shall be confirmed, modified, or revoked.

12. Describe the main procedures for the initiation, ordering and maintenance in force of provisional measures, in particular relevant time-limits and safeguards to protect the legitimate interests of the defendant.

All intellectual property laws set out the same procedures for initiation, ordering and maintenance in force of provisional measures. This involves:

- Filing a petition with the competent court.
- Submitting therewith a monetary guaranty sufficient to prevent arbitrariness, and against any damages sustained by the defendant if the petitioner is not justified in his claim.
- In cases where any delay is likely to cause irreparable harm to the rightholder, or where there is a demonstrable risk of evidence related to the infringement being lost, the court may take any of the provisional measures provided in the law on a provisional basis without notifying the defendant, and in absence thereof. The injured parties shall be notified of the measures taken by the Court as soon as the measure is executed.
- Upon proving that the petitioner is the rightholder and that his rights had been infringed or that such infringement is imminent, the court may take any of the measures on a provisional basis to prevent the act of infringement from occurring, or to preserve evidence relevant to the act of infringement.

As for time-limits and safeguards to protect the defendant, all intellectual property laws provide for the following:

- Any petition for provisional measures shall be filed together with a monetary guaranty sufficient to prevent arbitrariness, and against any damages sustained by the defendant if the petitioner is not justified in his claim.
- Provisional measures taken before filing the lawsuit shall be nullified upon the defendant's request if the lawsuit is not filed within eight days of the court's decision to take provisional measures.
- Where the provisional measures are revoked due to the lapse of the period of filing the lawsuit or due to any act of omission by the plaintiff, or where it is subsequently found that there has been no infringement or threat of infringement, the Court may, upon request of the defendant, order appropriate compensation for the defendant for any injury caused by such measures.
- The Court may order the petitioner who abused any measures to pay an adequate compensation for the damages to any party subject to such abuse.
- The defendant shall have the right to request a hearing within a reasonable period of time after he is notified of the measures taken. At the hearing, the Court shall decide whether the provisional measure shall be confirmed, modified, or revoked.

13. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

According to Article (6) of the Court Fees Regulation, the fees for applications of provisional measures is 10 JD. A fee for lodging the power of attorney is also due.

There are no provisions setting definite time limits for court proceedings. However, it is stipulated that petitions to the Court of Summary Matters (which is the court approached for provisional measures) are to be heard within 24 hours. Moreover, although not specifically provided for in the law, decisions in respect of such cases are issued within 48 hours.

(b) *Administrative measures*

14. Reply to the above questions in relation to any administrative provisional measures.

There are two instances relevant to intellectual property rights under the Jordanian laws which allow for what may be considered administrative provisional measures.

Article (36)(B) of the Copyright Law provides that in case of any suspicion indicating that a violation of the Law is being committed at any place which carries out printing, copying, producing or distributing of works, the employees of the National Library may search such place and seize the copies and the materials used in their production and transfer such together with the persons committing the violation to the Court.

Article (41)(d) of the Customs Law provides that the Director of the Customs Department or any deputy thereof may suspend clearance and release of goods if, on the basis of *prima facie* evidence, the Director or deputy is satisfied that there is infringement of intellectual property rights related to copyright and trademarks and according to the following provisions:

- 1- the importer and the rightholder shall be notified of the decision to suspend clearance and release of goods if the address is known;
- 2- if the Department, within eight days of the date of notification of the rightholder with the suspension decision, is not notified that a case has been instituted, the goods shall be released provided all legal conditions regarding importation are met;
- 3- the importer may challenge such decision at the competent court within eight days of being notified of the decision.

Special Requirements Related to Border Measures

15. Indicate for which goods it is possible to apply for the suspension by the customs authorities of the release into free circulation, in particular whether these procedures are available also in respect of goods which involve infringements of intellectual property rights other than counterfeit trademark or pirated copyright goods as defined in the TRIPS Agreement (footnote to Article 51). Specify, together with relevant criteria, any imports excluded from the application of such procedures (such as goods from another member of a customs union, goods in transit or *de minimis imports*). Do the procedures apply to imports of goods put on the market in another country by or with the consent of the right holder and to goods destined for exportation?

The Customs Law prohibits the entry into the Kingdom of imported goods which infringe an intellectual property right under the applicable laws. Accordingly, it is provided that the rightholder may submit a petition to the court to suspend clearance and release of such goods, provided the petitioner submits to the court sufficient evidence about the infringement and a detailed description of the goods. This procedure is applicable in the case of all intellectual property rights. However, the following are excluded from this protection: "small quantities of goods of a non-commercial nature, personal items and gifts contained in travellers personal luggage or sent in small consignments, as well as goods in transit".

Separately, the Customs Law also provides that the Director of the Customs Department or a deputy thereof, may suspend clearance and release of goods if convinced on the basis of *prima facie* evidence that they constitute an infringement of a trademark or a copyright. (The procedure pertaining to this exercise of authority by Customs is to be governed by a forthcoming regulation.)

As for whether the procedures apply to imports of patented products put on the market in another country by or with the consent of the rightholder and to goods destined for exportation, the Representative of the Government of Jordan has indicated in Jordan's accession Working Party Report (WT/ACC/JOR/33) that in situations in which there had been a breach of a contract with respect to imported products, such products would not be considered to be legally imported within the meaning referred to in the relevant Customs provision, and their importation would be prohibited. He noted, however, that the patentholder was required to notify the appropriate Jordanian customs authorities of the identity of parties authorized to import the patented product into Jordan, in which case measures would be available to prevent the entry into the Jordanian market of such unauthorised imports. He added that, for the sake of transparency, this clarification would also be reflected in implementing regulations. These regulations are now being drafted.

16. Provide a description of the main elements of the procedures relating to the suspension of the release of goods by customs authorities, in particular the competent authorities (Article 51), the requirements for an application (Article 52) and various requirements related to the duration of suspension (Article 55). How have Articles 53 (security or equivalent assurance), 56 (indemnification of the importer and of the owner of the goods) and 57 (right of inspection and information) been implemented?

The Customs Law and its amendments include provisions that reflect Articles 53 (security), 56 (indemnification) and 57 (inspection and information), as it states:

- The importation of goods which constitute infringement of any intellectual property right subject to protection under the relevant legislation in force, shall be prohibited on the following basis:
 - 1- The rightholder may submit to the competent court a petition with a cash or bank guarantee accepted by the court, to suspend release and clearance procedures for the said goods, provided the petition is supported by sufficient evidence about the infringement, and a detailed description of the infringing goods. (security)
- Moreover, the Customs Law provides that the competent court may order the petitioner to pay to the importer, the consignee, and the owner of the goods an appropriate compensation for any injuries incurred as a result of suspending the clearance and release procedure, on a wrongful basis, or in the case of release of the goods pursuant to provisions of the law. (indemnification)
- However, it is stated that the Customs Department shall not be liable to compensate the importer or the owner of the goods for any injuries resulting from suspension of release and clearance of the goods according to the provisions of the law.
- The Customs Law also provides that the petitioner may inspect goods subject to suspension of release and clearance procedures, under the Department's supervision, in order to substantiate the petitioner's claim. (inspection and information)

17. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost. How long is the validity of decisions by the competent authorities for the suspension of the release of goods into free circulation?

The fee for the application to suspend the release of goods from customs is 10 JD, as it is the fee applicable to petition for provisional measures.

Duration of proceedings

The Customs Law provides that the competent court shall issue its decision with regard to the petition for suspension of clearance procedures within three days of submission, and that the petitioner shall be notified of the court's decision within a reasonable period. Moreover, the defendant may appeal the court's decision to the Court of Appeal within eight days from the day the decision is notified or communicated to the defendant. The Court of Appeal's decision is considered final.

Validity of suspension decisions

The Customs Law provides that if the petitioner within eight days after being notified of the decision to suspend release and clearance procedures fails to notify the Department that a court case has been instituted, the goods shall be released provided it is established that such goods conform to legal requirements related to importation.

18. Are competent authorities required to act upon their own initiative and, if so, in what circumstances? Are there any special provisions applicable to *ex officio* action?

Such action may be taken only in cases of apparent infringement of a trademark or copyright. The Customs Law provides that the Director of the Customs Department or a deputy thereof, may suspend clearance and release of goods if convinced on the basis of *prima facie* evidence that they constitute an infringement on a trademark or a copyright. (The procedure pertaining to this exercise of authority by Customs is to be governed by a forthcoming regulation.)

The law provides that the importer may challenge the decision to suspend clearance procedures within eight days of being notified thereof. However, the Customs Law provides that the Customs Department shall not be liable to compensate the importer or the owner of the goods for any injuries resulting from suspension of the release and clearance of the goods. (See the answer to question 7 above.)

19. Describe the remedies that the competent authorities have the authority to order and any criteria regulating their use.

The Customs Department is not entitled to order remedies. However, according to the Customs Law, the court may order the petitioner to pay to the importer, the consignee, and the owner of the goods an appropriate compensation for any injuries incurred as a result of suspending the clearance and release procedure on a wrongful basis, or in the case of release of the goods pursuant to the provisions of the law. Moreover, the court may order the remedies referred to in the questions on remedies above if infringement is subsequently established.

Criminal Procedures

20. Specify the courts which have jurisdiction over criminal acts of infringement of IPRs.

See the answer to question 1 above.

21. In respect of which infringements of which intellectual property rights are criminal procedures and penalties available?

Criminal liability arises only in matters related to copyright, patents, and trademarks.

The Patent Law

The Patent Law provides that any person who committed, in bad faith, any of the following acts, shall be subject to imprisonment for a period not less than three months and not more than one year, or to a fine not less than one hundred Dinars and not more than three thousand Dinars, or both penalties:

- forged an invention patented pursuant to the provisions of this law for commercial or industrial purposes;
- sold, acquired for the purposes of selling, offered for sale or dealing, or imported from abroad, counterfeited products of the subject-matter of the invention, if such invention is registered in the Kingdom;
- placed misleading data on his products, trademarks, advertisements, or his packaging material that would make belief that he has obtained a patent or a license.

The same penalties apply on the attempting, assisting, or inciting to commit any of the aforementioned acts.

The Trademark Law

The Trademark Law provides that any person who presents a trademark as registered when it is not, shall, upon conviction for each offence, be liable to a fine not exceeding fifty Dinars.

Moreover, the Trademark Law provides that any person who with the intention to deceive, commits or attempts to commit or aids or incites any other person in committing any of the following acts shall be liable upon conviction to imprisonment for a period not exceeding one year or to a fine not exceeding one hundred Dinars, or to both such penalties:

- uses a trademark registered under this law or an imitation of such trademark applied on the same class of goods as that in respect of which the mark is registered;
- sells, stores for the purpose of sale, or exhibits for sale, goods bearing a mark the use of which is an offence under this clause;
- uses a mark duly registered by another person under this law to serve his purpose of promoting goods of the same class as those for which registration has already been obtained by that other person;
- manufactures, engraves, embosses or sells any plate, wooden or metal block, seal or other representation of a duly registered mark or any other imitation thereof for the purpose of enabling any person, other than the registered proprietor of the trademark, to make use of such mark or an imitation thereof in connection with goods of the same class as that for which registration has already been obtained by that other person;
- makes or causes to be made a false entry in the register kept under this law, or makes or causes to be made any written instrument falsely purporting to be a copy of any entry in that register, or produces or tenders or causes such instrument to be produced or tendered by way of supporting evidence, knowing that the entry or instrument is false.

The Copyright Law

The Copyright Law provides that any person who commits any of the following shall be liable to imprisonment for a term of a minimum of three months and a maximum of three years, and to a fine of not less than 1,000 Dinars and not more than 3,000 Dinars, or to either of the punishments:

- unlawful exercise of any of the rights provided for in Articles 8, 9, 10 and 23 of this law. (Copies of the law are provided.)
- the offering for sale, distribution, or rental of a counterfeit work or copies thereof, the publication of such works or copies, or the importation or exportation of such work with the knowledge of its counterfeiting.

22. Which public authorities are responsible for initiating criminal proceedings? Are they required to do this on their own initiative and/or in response to complaints?

Under the Criminal Procedures Law, the Public Prosecutor Office is responsible for initiating criminal proceedings. The Public Prosecutor may initiate criminal proceedings on its own initiative or in response to complaints.

Furthermore, in case of any suspicion indicating that a violation of the Copyright Law is being committed at any place which carries out printing, copying, producing or distributing of works, the employees of the National Library may search such place and seize the copies and the materials used in their production and transfer such together with the persons committing the violation to court.

23. Do private persons have standing to initiate criminal proceedings and, if so, who?

The Criminal Procedures Law provides that any person who witnesses or learns of a crime shall notify the competent Public Prosecutor of such crime. Moreover, under this Law, any person injured by any misdemeanour or felony may file a complaint with the Public Prosecutor of the competent court.

See also the answer to question 22 above.

24. Specify, by category of IPR and type of infringement where necessary, the penalties and other remedies that may be imposed:

- **imprisonment;**
- **monetary fines;**
- **seizure, forfeiture and destruction of infringing goods and materials and implements for their production;**
- **other.**

General provisions

The Criminal Code provides that, while taking into account the rights of others with good intention, things that resulted from a crime or an intended felony or which were used in its commission or to prepare for its commission may be confiscated. Those things, however, shall not be confiscated in an unintended felony or in a contravention unless, otherwise stated by law. Moreover, it is provided that which manufacture, items of ownership, or items for sale which are illegal shall be confiscated even if they are not owned by the accused or if there was no ruling against him.

Specific provisions

The Copyright Law provides for penalties of imprisonment ranging from 3 months up to 3 years, fines ranging from JD 500 to JD 3,000, and seizure and forfeiture and destruction. This law also provides for the following penalties:

- publishing the court's decision in the newspapers;
- shutting down the establishment where the infringement occurred;
- suspending the license of such establishment;
- impounding revenues derived from exploiting the work published through public performance;
- changing the features of the used copies or reproductions or equipment.

The Trademark Law and the Patent Law provide for imprisonment ranging from 3 months up to 1 year, fines ranging from JD 100 up to JD 3,000, and seizure, forfeiture and destruction.

(Other laws provide for remedies that are similar, but are not characterised here as penalties, since under such laws, no criminal liabilities arise. For such remedies see the answers to the questions relating to remedies above.)

25. Describe provisions governing the length and any cost of proceedings. Provide any available data on the actual duration of proceedings and their cost, if any.

There are no fees for criminal proceedings. However, in case of any ancillary civil claim, the Court Fees Regulation applies (see the answer to question 8 above). As for the duration of legal proceedings, there is nothing in the legislation that stipulates definite time limits for legal proceedings.
