

The Interrogative Lawsuit in Jordanian Law: An Analytical Study on Its Legitimacy and Conditions for Acceptance

Dr. Ahmad Suleiman Khalaf Al-Ma'aitah

Department of Private Law, Civil Law, Karak, Jordan

Maaiahmahmad49@gmail.com

<https://orcid.org/0009-0007-8686-1248>

Abstract

This study examines the interrogative lawsuit in Jordanian law through a descriptive-analytical approach, focusing on its legal nature and defining it as a preventive judicial action aimed at clarifying the plaintiff's legal position without claiming a right or enforcing an obligation. The lawsuit relies on a potential interest to avoid future legal disputes. The research highlights the absence of explicit legislative provisions regulating this lawsuit in the Jordanian Civil Procedures Law, which hinders its acceptance and effectiveness. Judicial practices vary between acceptance, rejection, and caution regarding this lawsuit. The study calls for legislative reform to explicitly regulate the interrogative lawsuit with clear conditions for acceptance to ensure preventive justice and legal stability. It also recommends enhancing judicial and doctrinal efforts to activate the role of this lawsuit in protecting rights before disputes arise.

Keywords:

Interrogative lawsuit, legal position, potential interest, preventive justice, civil procedures law, judicial doctrine, non-traditional lawsuit.

INTRODUCTION

The lawsuit constitutes a fundamental legal instrument through which individuals assert and defend their rights before the judiciary. Over time, the notion of the lawsuit has significantly evolved to encompass various forms beyond the traditional function of enforcing established rights. Some forms are intended to prevent imminent harm, while others aim to resolve uncertainty by clarifying ambiguous legal positions. Within this context, the interrogative lawsuit has emerged as a distinctive category. Unlike conventional lawsuits, which typically involve the pursuit of rights or compensation, the interrogative lawsuit primarily seeks to establish clarity regarding a legal position that may later become the subject of dispute. Its importance lies in reflecting an expanded judicial role that goes beyond dispute resolution to include preventive functions, thereby safeguarding legal certainty before conflicts arise. However, in the Jordanian legal framework, this type of lawsuit generates considerable challenges, largely due to the absence of explicit legislative provisions and the judiciary's reluctance to acknowledge its validity. Consequently, there is a pressing need for comprehensive legal research to examine the nature of the interrogative lawsuit, the doctrinal and procedural challenges to its acceptance, and the necessity of legislative regulation in order to strike a balance between the right to litigate and the imperative of protecting the judiciary from frivolous or vexatious claims.

The central problem addressed in this study is the lack of explicit statutory provisions within Jordanian legislation regulating the interrogative lawsuit. This gap raises significant questions about the extent to which the judiciary may recognize such lawsuits as preventive measures intended to clarify legal positions in the absence of an actual dispute. The uncertainty surrounding this issue gives rise to doctrinal, procedural, and judicial challenges. In particular, three key questions emerge: whether the interrogative lawsuit can be established on the basis of general

principles of litigation; what criteria the judiciary should adopt in determining its admissibility; and how its application can be regulated to prevent potential misuse or abuse.

The significance of this research lies in its engagement with a non-traditional type of lawsuit that has not yet received clear legislative regulation or stable treatment within legal scholarship, despite its increasing practical importance. The study highlights the legislative gap that currently exists in Jordanian law and calls for legal development that aligns with modern judicial approaches aimed at expanding preventive legal protection. By addressing the interrogative lawsuit, this research contributes to strengthening the Jordanian legal system and ensuring its responsiveness to complex and evolving legal relationships. Furthermore, it emphasizes the judiciary's potential preventive role in safeguarding legal stability before disputes escalate, thereby enriching both legal practice and doctrine.

The objectives of this study are fourfold. First, it seeks to provide a precise legal conception of the interrogative lawsuit by defining its nature, characteristics, and distinguishing features in comparison with traditional lawsuits. Second, it aims to examine the legitimacy of the interrogative lawsuit within Jordanian law and to analyze the legal principles that may justify its recognition despite the absence of explicit statutory provisions. Third, it intends to identify the judicial and practical challenges that accompany this type of lawsuit, particularly with respect to proving preventive interest and determining the scope of judicial discretion in its acceptance. Finally, the study endeavors to propose realistic legislative reforms and policy recommendations that would establish a clear legal framework for the interrogative lawsuit, ensuring a balance between access to justice and the prevention of judicial abuse. Through this comprehensive analysis, the research aspires to enrich Jordanian legal scholarship with an in-depth study of this innovative model of lawsuit and to pave the way for further exploration of preventive legal protection within contemporary judicial systems.

METHOD

This study adopts a descriptive–analytical approach as its primary methodological framework. The descriptive dimension is employed to present and clarify the legal concepts underlying the interrogative lawsuit, including its definition, essential characteristics, and distinctive position in relation to other traditional forms of litigation. By systematically outlining these fundamental aspects, the research establishes a conceptual foundation necessary for examining the interrogative lawsuit within the broader context of legal doctrine and judicial practice.

The analytical dimension of the method is directed toward assessing the legal framework governing this type of lawsuit in Jordanian law and evaluating the judiciary's stance regarding its admissibility. This involves a critical examination of judicial practices, legislative gaps, and doctrinal debates, while also incorporating comparative jurisprudence and scholarly commentary from other legal systems when relevant. Through this dual focus, the study not only elucidates the theoretical underpinnings of the interrogative lawsuit but also offers a rigorous evaluation of its practical challenges and potential avenues for legislative reform.

RESULTS AND DISCUSSION

Structure of the Study

First Chapter: Theoretical Framework of the Interrogative Lawsuit

- a. Section One: Concept and Characteristics of the Interrogative Lawsuit
- b. Section Two: Legal Nature and Interest in Filing the Interrogative Lawsuit

Second Chapter: Legitimacy of the Interrogative Lawsuit in Jordanian Law

- a. Section One: The Jordanian Legislation's Position on the Interrogative Lawsuit
- b. Section Two: The Jordanian Judiciary's Position on the Interrogative Lawsuit

Chapter One :Theoretical Framework of the Interrogative Lawsuit

The interrogative lawsuit represents a non-traditional type of legal action within the legal system. It aims to protect rights through legal guidance or affirmation of legal positions rather than claiming an established or recognized right. This lawsuit is based on the idea of preventing future disputes and achieving a balance between protecting rights and averting legal problems before they arise. This requires a precise understanding of the concept of the interrogative lawsuit and distinguishing it from other types of lawsuits that might be confused with it. This chapter will address this by studying its definition, characteristics, and legal nature. Accordingly, the first section will focus on the concept and characteristics of the interrogative lawsuit, while the second section will examine its legal nature and the interest in filing such a lawsuit.

Section One: The Concept and Characteristics of the Interrogative Lawsuit

Jordanian legislation has not explicitly recognized the term "interrogative lawsuit," nor has it codified it in its legislative framework, unlike traditional lawsuits known in the Jordanian legal system. However, the Jordanian legislator indirectly adopted a similar concept known as the lawsuit to prevent claims in the State Claims Management Law, specifically in Article 5 of the same law, which stipulates:

Acceptance of a lawsuit to prevent claims against state departments requires the plaintiff to pay the claimed amount or provide a judicial or bank guarantee ensuring payment of the said amount. Execution and claims are suspended upon providing such a guarantee or depositing that amount until the judgment acquires finality ,This comes close to the concept of the interrogative lawsuit, which prompted the researcher to explore the extent of its legitimacy. (Jordan, 2017, Art. 5)

Some scholars have classified the interrogative lawsuit among declaratory actions, defining it as a type of lawsuit that a person resorts to when determining their legal position or the establishment or termination of one of their rights depends on an act performed by another party within a period set by law. For example, this lawsuit appears when a person contracts with a minor; such a contract is not valid unless approved by the guardian. In this case, the contracting party with the minor may have an interest in summoning the guardian to explicitly state their position regarding the contract's approval or rejection, aiming to remove uncertainty and clarify the legal status of the relationship. (Ragheb, 1999, p. 52)

Some jurists argue that the interrogative lawsuit is used when a person has the freedom to choose between two positions within a legally defined timeframe, and this lawsuit requests them to clearly manifest the option they intend to take, with the aim of resolving a pending legal position that affects the other party's status. (Al-Aboudi, 2000, pp. 212–213)

Similarly, some laws, such as the Kuwaiti law, define the interrogative lawsuit as one filed by a party against a person whom the law has granted the power to choose between two options within a specified period, demanding a clear decision before the legal deadline expires. (Kuwait Civil Code, 1980, Art. 182)

By closely examining the term interrogative lawsuit, it appears to be a preventive tool that enables individuals to obtain legal clarifications regarding their legal status or positions where ambiguity might affect their future rights. While lawsuits vary in type, the interrogative lawsuit remains distinct in that it does not seek a judgment concerning a specific right but rather investigates a legal issue that may have future implications. (Mohamah.net, 2025), (Ragheb, 1999, p. 52 ff.)

This section will explore the meaning of the interrogative lawsuit and its distinguishing characteristics, which set it apart from other types of lawsuits in the judicial system.

After a thorough analysis of the term “interrogative lawsuit,” and considering it as a lawsuit falling within the preventive protection granted by the state to individuals to avoid future legal disputes, it is necessary to clarify the characteristics of this lawsuit and distinguish it from similar lawsuits in the Jordanian legal framework. This is an essential prerequisite for formulating a comprehensive definition of this lawsuit. The researcher will address this in detail in this section, divided into two subsections: the first dealing with the characteristics of the interrogative lawsuit, and the second with its distinction from similar lawsuits.

Section One: Characteristics of the Interrogatory Action

The interrogatory action is characterized by its non-traditional nature, which necessitates a thorough examination of its core features to understand its legal essence and limitations. It does not fall under the conventional categories of civil claims, such as personal or real rights. Rather, it represents a distinct legal mechanism that seeks preventive protection by clarifying the legal status of the parties involved.

An interrogatory action is initiated by a claimant against a defendant with the aim of compelling the latter to clarify their position regarding a specific condition stipulated in the legal relationship, or concerning the exercise of a discretionary legal right within a specified period. (Gharaibeh, 2007, p. 117 ff.)

Legal scholars differ regarding the permissibility of such actions. Some maintain that the action is valid, as the claimant has a legitimate interest in determining their legal position without delay. Others argue that such an action in effect shortens the statutory period granted to the defendant to exercise their legal option, which is impermissible as it infringes on a right guaranteed by law. (Kamal, 1998, p. 27), (Abu el-Wafa, 1965, p. 121), (Juma’ee, 1980, p. 341)

Despite this divergence, the prevailing view supports the admissibility of the interrogatory action, provided that the claimant has a legally recognized interest—for instance, requesting the court to confirm the validity of a contract. In such cases, the defendant may ask the court to suspend proceedings until the expiry of the legal period granted for making a decision. The court must grant this request; otherwise, the claim would be inadmissible for being prematurely filed, as the claimant has no enforceable legal right before the expiry of the statutory period. (Juma’ee, 1980, p. 341)

Since the general rule in litigation is that actions must seek the enforcement of an existing right or the redress of an actual harm, the interrogatory action departs from this norm. Thus, a careful study of its characteristics is essential to determine its legitimacy and role within the judicial system.

1. It does not seek enforcement of an acquired right or compensation for harm

The interrogatory action is not based on a tangible or enforceable right being claimed before the court, nor does it seek compensation for a realized harm. Instead, its core purpose is to clarify the legal status of a party concerning a legal matter that may potentially lead to future litigation.

Such actions do not involve the enforcement of obligations or the pursuit of tangible or moral rights. Rather, they aim to eliminate ambiguity or legal uncertainty surrounding a specific legal relationship. As such, the interrogatory action significantly differs from traditional legal claims, which require the existence of an infringed right or actual harm at the time of filing.

This distinct characteristic justifies classifying the interrogatory action as a preventive and anticipatory legal tool—designed not to protect an existing right, but to avert potential disputes surrounding it.

2. It seeks to declare a legal status rather than claim a right

An interrogatory action is filed with the aim of obtaining a judicial declaration of a particular legal status of the claimant or one of the parties to a legal relationship, without demanding the enforcement of obligations or compensation for damages. The essence of such an action is not based on an infringed, vested right, but rather on a state of legal uncertainty surrounding a current or potential legal relationship that may give rise to a future dispute.

The claimant does not seek a performance from the opposing party, nor redress for a violation. Instead, they aim to resolve ambiguity regarding whether a legal status exists—for example, whether a contract remains valid, an obligation has been extinguished, or whether the claimant retains full legal capacity to perform a certain act.

Accordingly, such actions are classified as declaratory in nature, rather than executory or constitutive. They serve as preventive instruments to protect legal statuses before a conflict escalates or materializes.

3. It is based on a potential or preventive legal interest

Interrogatory actions are grounded in a legal interest that does not have to be immediate or current at the time of filing. Rather, it suffices that the interest be probable or imminent, provided it is serious and legally legitimate.

The goal is to prevent a future legal risk stemming from ambiguity in the relationship or in the scope of obligations between the parties—without requiring an actual dispute to have arisen.

Thus, the interest in such actions assumes a preventive and potential character, allowing the claimant to resort to the judiciary in order to safeguard their legal position before it is compromised—consistent with the modern understanding of legal interest, which no longer limits it to current or realized interests.

4. It may serve as a legal tool to prompt the other party to take a defined position

Despite the preventive nature of interrogatory actions, they may at times serve a legitimate legal pressure function. They enable the claimant to prompt the other party to clarify their legal stance regarding a specific relationship or obligation—particularly where that party exhibits hesitation or ambiguity that could cause future legal harm.

By presenting the potential dispute before the court—even in a non-assertive, interrogatory format—the opposing party may be compelled to disclose their legal position or alter their conduct, thereby avoiding escalation of the dispute. This use remains lawful, provided it falls within the right to access the courts and is based on a recognized, potential legal interest.

Section Two: Distinguishing the Interrogatory Action from Similar Lawsuits

After examining the key characteristics of the interrogatory action, it is essential to establish a solid and sound legal foundation for it. Crucial to this effort is distinguishing the interrogatory action from traditional lawsuits with which it shares some features. While some lawsuits aim to safeguard specific rights or achieve particular objectives, the interrogatory action primarily seeks legal clarification regarding a suspended legal position. This requires a precise analysis of its fundamental differences from personal, real property, and “bolisi” (annulment) actions.

Although the interrogatory action may share certain traits with other types of lawsuits, it differs in purpose and legal outcome:

1. Distinction from Personal Lawsuits

Jordanian legislation defines a personal right under Article 68 of the Civil Code as: “a legal link between a creditor and a debtor which entitles the creditor to demand that the debtor transfer a property right, perform an act, or refrain from an act.” Personal lawsuits, accordingly, aim to protect a personal right (e.g., a claim or compensation), Article (68) of the Jordanian Civil Code No. 43 of 1976.

By contrast, the interrogatory action is not explicitly regulated by Jordanian law. Rather, certain actions—such as the preventive “lawsuit to prevent claims”—may overlap conceptually with the interrogatory action, which fundamentally involves legal clarification rather than asserting a right.

2. Distinction from Real (Property) Lawsuits

Both the interrogatory action and real property lawsuits fall within the realm of civil litigation but diverge in objective and legal substance. The interrogatory action seeks legal clarification regarding a position that may later become contentious and does not involve asserting direct rights or claiming compensation. Its aim is preventive—resolving ambiguity in legal relations that might impact future rights and obligations.

In contrast, real property lawsuits deal with concrete property rights as defined under Jordanian law, such as ownership or usufruct. Such actions protect material property rights—e.g., reclaiming ownership of real estate or defending a usufructuary interest. The fundamental difference is that the interrogatory action inquires into a legal position, while real property actions concern tangible property rights, Article (69) of the Jordanian Civil Code No. 43 of 1976, which states: “A real right is a direct

power over a specific thing granted by law to a certain person. The real right may be original or derivative.”

3. Distinction from Annulment Actions (Bolisi)

The interrogatory and annulment actions are both types of civil proceedings but differ significantly in intent and legal consequence. The interrogatory action seeks clarification of a legal position before any actual dispute arises and does not depend on a causal legal harm or demand.

By contrast, an annulment action is brought to challenge a legal act already performed by another party that causes harm—often to void or invalidate that act. These actions are premised on a real interest injured by another’s conduct, such as disposing assets to avoid creditors. Article (370) of the Jordanian Civil Code No. 43 of 1976, which states: “If the debt, whether immediate or deferred, is secured by the debtor’s property and exceeds or equals it, the debtor is prevented from making donations that do not bind him and are not customary. The creditor may request a judgment to nullify this transaction against his right.”.

The key difference lies in the legal outcome: the interrogatory action addresses uncertainty and seeks clarification, while the annulment action targets substantive harm by invalidating damaging transactions.

4. Distinction from the “Lawsuit to Prevent Claims”

Both the interrogatory action and the preventive “lawsuit to prevent claims” are anticipatory legal tools, but they diverge in goals and substance. The interrogatory action seeks clarification of a party’s legal position—e.g., whether a contract remains valid or whether an obligation exists—without seeking enforcement or adjudicating rights.

Conversely, the “lawsuit to prevent claims” is intended to preempt an illegitimate or unfounded future claim—essentially, stopping a potential enforcement action before it happens. For instance, where one might fear a future financial claim (e.g., for a debt or compensation), the preventive lawsuit suspends or blocks that prospective demand. (Jordanian Court of Cassation, Civil Capacity, Decision No. 1864/2023, dated September 14, 2023, available on Qararuk website, Jordanian Bar Association., Jordanian Court of Cassation, Civil Capacity, Decision No. 8625/2018, dated March 28, 2018, available on Qararuk website, Jordanian Bar Association, Jordanian Court of Cassation, Civil Capacity, Decision No. 9609/2024, dated December 31, 2024, available on Qararuk website, Jordanian Bar Association).

Although both actions share a preventive orientation, the core distinction is that the interrogatory action clarifies while the preventive lawsuit directly obstructs or forestalls a claim. The Jordanian Court of Cassation has consistently upheld courts’ authority to determine intent and legal character in such cases, affirming that both acts serve protective judicial functions—but in fundamentally different manners.

Section Two: The Legal Nature and Interest in Filing an Interrogative Lawsuit

The legal debate surrounding the interrogative lawsuit arises in the context of the development of the judicial system. In this regard, it is necessary to point out that the interrogative lawsuit challenges many traditional principles in modern laws, whether in the Jordanian system or other legal systems. This type of lawsuit aims to obtain clarification regarding the legal position of a certain party and is often met with legal criticism in both jurisprudence and judiciary circles, as it raises fundamental

questions about the scope of legal interest and the conditions for its acceptance amid the absence of explicit provisions regulating it. Legal scholarship must address this issue from multiple perspectives to analyze and interpret the existence of this lawsuit within the framework of existing legal principles. The central point here is the ambiguity of legal interest and the lack of clear legislation.

When addressing the interrogative lawsuit, one must consider legal interest, which is the foundation for accepting any lawsuit according to the general rules in contemporary legislation. The interrogative lawsuit, as a non-traditional lawsuit, is based on a (potential or future) legal interest that is often difficult to prove, thereby weakening its chances of acceptance before the judiciary. In the absence of clear legal texts specifying how to handle this lawsuit, the judge is left to exercise wide discretionary power that may lead to varying decisions depending on the specific circumstances of each case.

It has been noted that one of the main issues facing the interrogative lawsuit is the distinction between this type of lawsuit and personal, real, or possessory lawsuits. While personal lawsuits seek to enforce an established right, the interrogative lawsuit does not require that, which makes it an (incidental lawsuit) that may raise doubts about its seriousness in the eyes of some. The interrogative lawsuit essentially does not lead to direct consequences as other lawsuits do but rather aims to clarify a legal position whose implications may change in the future. This constitutes a fundamental difference placing it in a state of legal ambiguity, provoking ongoing debate among jurists about the legitimacy of accepting it in the absence of decisive legislative texts.

From this debate, it can be said that accepting the interrogative lawsuit may open a wide door to expanding the scope of legal protection for individuals facing unclear legal situations, as it can be considered a preventive tool protecting individuals from potential legal risks in the future. However, at the same time, the main challenge appears in that this lawsuit may lead to unjustified interference with judicial authority, turning it from a mere inquiry procedure into a legal tool for pressure or obstruction of legitimate and clear legal proceedings.

Another issue lies in the position of the Jordanian judiciary, which still tends to be cautious toward the interrogative lawsuit. This caution stems from the lack of a coherent legal sequence on how to apply this lawsuit, leaving the field open to differing judicial interpretations. While some advocate for recognizing this lawsuit as a tool for preventive protection of rights, others insist that the absence of specific provisions necessitates maintaining legal rigidity to avoid descending into a state of legislative ambiguity that could harm justice. (Jordanian Court of Cassation, Decision No. 3092/2014; Decision No. 2143/2005)

The legislative stance in the Jordanian legal system remains unclear regarding this type of lawsuit, calling for urgent legislative intervention to establish a clear and strict legal framework regulating these lawsuits. It is essential to define the concept of legal interest in this context to distinguish cases worthy of accepting the interrogative lawsuit from those that are merely frivolous disputes lacking genuine interest. In light of the practical and jurisprudential challenges raised by this research, it becomes necessary to amend the Jordanian Civil Procedure Code to clarify the mechanism for accepting the interrogative lawsuit and the conditions required to file it. The Jordanian judiciary should also adopt clearer and more

cautious positions on this matter to ensure the unification of judicial rulings and protect individuals' rights in a lawful and secure manner. (Jordanian Court of Cassation, Decision No. 3092/2014; Decision No. 2143/2005)

One of the basic rules in law is that a lawsuit is not accepted unless there is a legitimate legal interest justifying its filing, and this applies to the interrogative lawsuit. Some may question the justification for accepting it amid the ambiguity of some of its conditions. This lawsuit concerns preventive or potential interest, making the study of its legal nature crucial. It requires a deep understanding of how legal interest is determined in the interrogative lawsuit and its effect on the judiciary's acceptance of the lawsuit. The judiciary does not accept any lawsuit without the presence of (legal interest), and this rule applies to the interrogative lawsuit as well. However, the special nature of this lawsuit calls for expanding the concept of interest to include preventive or potential interest. The conditions for accepting the interrogative lawsuit regarding interest are that (the interest must be legal, serious, and not merely speculative; the inquiry must relate to a matter that could have subsequent legal effects; and there must be an existing or expected legal relationship between the parties).

As a result of the above, it is clear that despite its preventive character, the interrogative lawsuit remains, legally, burdened by many issues that require clear legal codification. In the Jordanian judicial system, this type of lawsuit remains a subject of ongoing debate between the need for preventive protection of rights on the one hand, and the necessity to maintain the integrity of the judicial system against unjustified manipulations and delays on the other. (Jordanian Code of Civil Procedure, Article 3, 1988)

The interrogative lawsuit is considered a civil lawsuit in its legal nature, as it concerns clarifying the legal position of the parties in a dispute that does not actually yet exist. It specializes in resolving disputes related to rights and duties between individuals or legal entities, and its goal is to prevent dispute or help avoid it by proactively clarifying legal matters. Unlike traditional civil lawsuits that demand enforcement of a right or compensation for damage, the interrogative lawsuit addresses a legal inquiry or clarification regarding a potential future legal position. This lawsuit aligns with the general principles that accept civil lawsuits when there is a legal interest, which may be future or potential.

From the foregoing, we can define the interrogative lawsuit as: an exceptional judicial lawsuit with a preventive nature, intended to elucidate the legal position of a party in a potential dispute without involving a claim to a right or contesting a transaction, aiming to prevent legal ambiguity that may lead to a future dispute.

Chapter Two: Legality of the Interrogative Lawsuit in Jordanian Law

Through close scrutiny of Jordan's legislative framework, it becomes evident that the legal system displays notable ambiguity regarding the recognition of the interrogative lawsuit. This raises several legal questions—chief among them: Is this type of lawsuit legitimate, despite the absence of explicit statutory provisions? Nonetheless, general legal principles safeguarding the right to litigation and the protection of rights may offer interpretive flexibility that permits its acceptance. Accordingly, this chapter is organized into two sections:

Section One: Legislative Position of Jordanian Law on the Interrogative Lawsuit

Jordanian civil legislation establishes the foundational doctrines governing cases that may be adjudicated in courts. Although there is no explicit provision for the interrogative lawsuit, constitutional guarantees of the right to litigate provide a flexible foundation for its potential inclusion. For instance, Article 101 of the Jordanian Constitution enshrines litigation as an inviolable right; thus, if a litigant possesses a genuine legal interest, raising an interrogative lawsuit does not contravene any practical constraint.

Moreover, Article 3 of the Jordanian Code of Civil Procedure (1988) reinforces judicial protection for legal interests, permitting a party with a protected interest to request litigation when there is a threat to that interest. The overarching legal maxim—"legitimate exercise does not entail liability"—is enshrined in Article 61 of the Civil Code: "The legitimate exercise of a right precludes liability for resulting damages." The Jordanian Constitutional Court affirmed this principle in Constitutional Review No. 1/2018, clarifying that litigation is a fundamental legal mechanism to protect rights and that legal challenges initiated in good faith—even if unsuccessful—are constitutionally safeguarded (i.e., no liability arises from such proper exercise). (Jordanian Constitution, Art. 101), (Jordanian Court of Cassation, Decision No. 1864/2023; Decision No. 8625/2018), (Jordanian Civil Procedure Law, Art. 3), (Jordanian Civil Code, Art. 61), (Jordanian Constitutional Court, Decision No. 1/2018)

Comparative analysis further supports the concept of interrogative actions. For example, Article 1844-12 of the French Civil Code authorizes interrogative proceedings in company law, allowing any interested party to summon someone to clarify or correct a defective corporate act within six months, or else their petition to annul the act is forfeited. French commercial law mirrors this through Article L.235-6, and inheritance law applies a similar mechanism: under Civil Code Articles 771 and 772 (as amended 2006), heirs may be pressed judicially to accept or renounce an inheritance after an initial four-month waiting period—failing which silence equates to acceptance. (Yousef Tabukiout & Yazid Dalal, 2021).

These comparative examples illustrate how preventive clarity mechanisms can provide legal stability and enhance judicial efficiency—principles highly relevant to the Jordanian context.

Section Two: The Position of the Jordanian Judiciary on the Interrogative Lawsuit

The judiciary is the authority that determines whether the interrogative lawsuit is admissible or not. Its position depends on several factors, including the plaintiff's interest and the presence of legal circumstances threatening their rights. In the absence of clear legislative texts, judicial discretion is employed, which may vary from case to case. Upon reviewing judicial rulings on this matter, it becomes apparent that there is no explicit judicial precedent addressing this type of lawsuit directly, nor is there a settled precedent due to the fact that the term or concept of the interrogative lawsuit is not clearly or comprehensively regulated in the Jordanian legal system. This, in itself, raises a set of practical challenges regarding the acceptance of the interrogative lawsuit before the competent court that adjudicates

disputes between litigants. (Jordanian Court of Cassation, No. 1864/2023, 2023),(Jordanian Court of Cassation, No. 8625/2018, 2018).

In practical reality, it can be imagined that when an interrogative lawsuit is filed before the court, the legal parties may face several practical challenges, ranging from the absence of explicit legal texts clarifying the mechanism for its acceptance, to difficulties in proving legal interest when it is potential or unclear. Hence, it is important to review these challenges to understand the reasons that may lead to the rejection or conditional acceptance of the lawsuit. This section highlights the most prominent practical obstacles that individuals may face when filing an interrogative lawsuit within the Jordanian judicial system, which can be envisaged from the researcher's perspective in this regard. (Jumaie, previous reference, p. 340 et seq.)

First: Absence of Explicit Legislative Text Regulating the Interrogative Lawsuit

The absence of explicit legislative provisions regulating the interrogative lawsuit constitutes one of the main obstacles facing this type of lawsuit in front of the judiciary. Neither the Jordanian Code of Civil Procedure nor other applicable legislations contain a clear provision recognizing it as an independent lawsuit or specifying the conditions for its acceptance and its procedures. This contrasts with the prior practices in France. This legislative gap leads to judicial inconsistency in dealing with these lawsuits, as some may be accepted if a potential legitimate interest exists, while others may be rejected due to the lack of actual dispute or absence of direct interest, which results in judicial hesitation and instability in legal standings. (Ghassam, 2018, pp. 8-12).

Second: Difficulty in Proving Legal Interest in Potential or Future Cases

Proving legal interest represents one of the central challenges in the interrogative lawsuit, especially when the interest is not current but potential or future. Generally, courts do not consider lawsuits unless there is a personal, direct, and current interest, which is a substantive condition for accepting any lawsuit according to the provisions of the Code of Civil Procedure. (Jordanian Code of Civil Procedure, Art. 3, 1988)

However, by its nature, the interrogative lawsuit is preventive, aimed at avoiding potential harm or legal ambiguity that may later cause a dispute. In such cases, the plaintiff faces difficulty in providing concrete evidence of a real threat to their legal position, making the proof of interest before the court questionable or subject to challenge. (Jordanian Code of Civil Procedure, Art. 3, 1988)

Due to the absence of legislative texts that expand the concept of interest to include probability and prevention, the matter remains subject to the judge's discretion, who may perceive the lawsuit as premature or a misuse of the right to litigation, leading to its dismissal on procedural grounds despite being based on legitimate legal motives. (Ghassam, 2018, pp. 8-12).

Third: Absence of Stable Judicial Precedents

The researcher believes that the lack of clear and stable judicial precedents regarding the interrogative lawsuit is among the most prominent challenges facing litigants when resorting to it. The Jordanian judicial system has yet to develop a unified or recurring jurisprudential trend that could serve as a reference when filing this type of lawsuit, which adds significant procedural and substantive uncertainty to its course. (Jumaie, previous reference, p. 345 et seq.)

As a result, parties to the lawsuit, whether the plaintiff or their lawyer, find it difficult to build a solid argument convincing the court to accept the lawsuit, due to the lack of jurisprudential rules clarifying the conditions for acceptance or defining the framework of acceptable preventive interest.

Fourth: Possibility of Abuse of the Lawsuit for Illegitimate Purposes

Despite the protective and preventive nature of the interrogative lawsuit, its open-ended subject and the absence of regulating legal texts raise legitimate concerns about its potential misuse by some parties. Sometimes, this lawsuit may be employed as a provocative or obstructive tool, not to clarify the legal position in good faith, but to confuse the opposing party or hinder their legitimate legal actions, such as preventing the conclusion of a contract, delaying the fulfillment of an obligation, or applying psychological pressure during negotiations. (Jaber, 2017, p. 319)

These concerns increase in the absence of clear criteria defining the scope of acceptance of the lawsuit, placing an additional burden on the judiciary to distinguish serious lawsuits from those used in bad faith, which some jurisprudence supports and which the researcher tends to agree with. (Jaber, 2017, p. 321)

Therefore, legislatively regulating this lawsuit and setting objective limits for its acceptance is necessary to prevent it from becoming an abusive means that undermines the principle of good faith in litigation.

CONCLUSION

In conclusion, the declaratory (interrogative) action represents an effective legal tool for the preventive protection of rights. However, it still faces numerous legal and practical challenges within the Jordanian judicial system. Despite the absence of explicit legislative provisions governing this type of action, general legal principles may support its admissibility under certain conditions. Therefore, it has become essential to establish a clear legal framework that ensures the protection of individual rights and reduces the ambiguity surrounding the application of such actions.

This type of lawsuit represents a non-traditional judicial approach aimed at proactive legal protection by clarifying the legal status of the parties involved. Although the Jordanian legal system lacks explicit statutory regulation of this action, the flexibility inherent in general legal principles allows for its interpretation as admissible when a legitimate interest is present.

The position of the Jordanian judiciary remains divided on this matter, which highlights the urgent need for legislative intervention to codify and regulate the conditions for this action. Such a step is necessary to achieve preventive justice and to protect rights at an early stage before disputes escalate.

Findings

1. Declaratory actions are theoretically recognized but are not explicitly mentioned in Jordanian legislation.
2. The declaratory action is an exceptional legal measure with a preventive nature. It aims to clarify the legal position of a party in anticipation of a potential dispute, without involving a claim for a right or challenging a specific act, thereby avoiding future legal ambiguity.
3. Judicial acceptance of declaratory actions is inconsistent and depends on the trial judge's assessment of the legal interest involved.

4. Jordanian legal scholarship has not devoted sufficient attention to this type of action, resulting in various practical and doctrinal challenges for litigants.
5. A legislative gap currently exists, which allows for conflicting judicial interpretations of the same legal issue.

Recommendations

1. It is advisable to amend the Jordanian Code of Civil Procedure to explicitly recognize declaratory actions as a legitimate type of lawsuit, and to outline the specific conditions for their admissibility.
2. There is a need to establish clear legal criteria to ensure that the interest invoked in such actions is either actual or reasonably anticipated.

References

- Abu Al-Wafa, A. (1965). *Civil and commercial procedures* (1st ed.). Dar Al-Maaref, Cairo, Egypt.
- Ashraf, J. (2017). The French legislative reform of contract theory: Judicial practice and legislative drafting. *Kuwait International Law School Journal, Special Supplement*, 2(2), 319. Kuwait.
- Constitution of the Hashemite Kingdom of Jordan (1952).
- Dalal, Y., & Taboukiout, Y. (2021). Interrogatory lawsuits in the new French civil law as a mechanism to achieve contractual security. *Journal of Comparative Legal Studies*, Algeria, 1923 ff.
- French Civil Code.
- French Commercial Code.
- Ghraibeh, M. F. M. (2007). *The plea of lack of legal standing in Islamic Sharia and law* (Doctoral dissertation). University of Jordan, Jordan.
- Gumaei, A. B. (1980). *Principles of litigation in the new Code of Procedure* (1st ed.). University Press House, Alexandria.
- Jordanian Civil Code No. 43 of 1976.
- Jordanian Code of Civil Procedure of 1988 and its amendments.
- Kamel, R. G. (1998). *Conditions for admissibility of claims in civil and commercial matters* (1st ed.). Al-Alfi Legal Library, Egypt.
- Kuwaiti Civil Code No. 67 of 1980.
- Law on the Management of State Cases No. 28 of 2017 (Jordan).
- Mbayyad, A. (2003). *Summary of the Jordanian Code of Civil and Commercial Procedure No. 2 of 2001* [Lecture notes]. Ain Shams University, Egypt.
- Mohamah.net – Arab Legal Network. Retrieved from <https://www.mohamah.net/law/>
- Qararuk, Jordanian Bar Association. Retrieved from <https://qararuk.mls.gov.jo/>
- Qasem, M. H. (2018). *The new French contract law in Arabic* (1st ed.). Al-Halabi Legal Publications, Lebanon.
- Ragheb, W. (1999). *Principles of civil litigation: Code of Civil Procedure*. Dar Al-Thaqafa University Press, Alexandria, Egypt.
- Zaboon Al-Obaidi, A. (2000). *Commentary on the Civil Procedure Law*. Dar Al-Kutub for Publishing, Mosul, Iraq.