

Term

Presidential Decree (of the PA)

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Definition

The term Presidential Decree refers to the power of the President of the Palestinian Authority (PA), given to him by the PA's Basic Law in specific and irregular situations, to enact new procedures and regulations enjoying legal validity, without the normal legislative procedure.¹

Background

The powers of the president of the PA are defined in the Palestinian Basic Law, which is regarded as the temporary constitution of the PA.²

Due to internal and international pressure, reforms were made in the Basic Law (2-3/03) that included forming the role of the Prime Minister to whom some of the President's powers were transferred.

Even after this reform in the Basic Law, the President maintains a large amount of power. He remains the figure directly elected by the voters in the West Bank and Gaza and is able to appoint and dismiss the Palestinian Prime Minister.

The Use of a Presidential Decree

One of the most prominent powers of the President is the power to issue a Presidential decree – procedures and regulations that have legal validity – in specific and urgent situations as well as in cases when the Legislative Council does not assemble.

Presidential decrees become void if they are not approved in the first meeting of the Legislative Council after their issuance, or if the council decides not to prolong them.

Presidential decree in a State of Emergency³

According to the Basic Law, the President can declare a State of Emergency by Presidential decree for a period of 30 days when there is a threat to national security due to a war, invasion, armed revolution or national disaster.

The State of Emergency can be prolonged for another period of 30 days with the authorization of two thirds of the Palestinian Legislative Council. The emergency decree needs to be specifically defined in its purpose and its duration.

The Legislative Council has the right to ratify the Government's decision in either the first assembly meeting after the State of Emergency was declared, or in the assembly in which it was prolonged – whichever comes first.

¹ Chapter 4 article 60 of the Palestinian Basic Law. For the full version of the law in English [click here](#).

² The Palestinian Basic Law, the 'temporary constitution' of the PA in the interim period (5/94-99), was approved in the Palestinian Legislative Council (10/97) but was only ratified by Chairman Arafat only five years later (5/02) (and even that it was not fully applied).

³ Chapter 6 article 101 in the Palestinian Basic Law.

According to the Basic Law, the Legislative Council can not be dissolved nor suspended during the State of Emergency.

The State of Emergency after Hamas took over Gaza

After Hamas took over Gaza (7/6) President Abu-Mazen declared a State of Emergency in the PA using a Presidential decree. The State of Emergency was used to issue several decrees: nominating Abu Mazen's secretary, A-Taib Abed el-Rahim to be the head of the committee investigating the failure of the defense establishment vis-à-vis Hamas in Gaza; nominating Zacaria al Agha to head of the Fatah's High Committee in Gaza; and declaring Hamas' operational force illegal⁴.

End.

⁴ Abu-Mazen's broad use of presidential decrees during the Hamas taking over of Gaza led to criticism regarding their legality. Those who oppose Abu-Mazen claim that he ignores the article in the basic law that obligates him to approve the decrees in the Legislative Council. Abu-Mazen claims that he can rule with these decrees for as long as the Legislative Council can not assemble following the Hamas take over of Gaza. See Hassam as-al din, [Al-Hayam](#), 20/06/07 (in Arabic).