

## **Controls of Investigation and Procedures for Disciplining Judges in Light of the Jordanian Judicial Independence Law**

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### **Abstract**

*The current study includes a discussion of how to conduct the disciplinary accountability of a judge when committing a disciplinary violation, especially with regard to investigation procedures, steps, and controls, the body in charge of following up and supervising it, the results that follow from the investigation and how to deal with them, the possible penalties that can be imposed on the judge, and how to conduct the disciplinary trial before the Judicial Disciplinary Council.*

*The study concludes with a set of results, the most prominent of which are the presence of deficiencies in the Judicial Independence Law and its amendments No.29 of 2014, especially with regard to procedures of investigation and referring to the texts of civil service system and activating its rules in such cases. The study recommends addressing some of the deficiencies, especially canceling the text that includes a return to the civil service system because there are disagreements and a big difference between the disciplinary procedures of the public employee and the judge.*

**Keywords:** *Disciplining Judges; Judicial Disciplinary Council; Disciplinary Accountability of the Judge.*

### **Introduction**

The role of judiciary in the modern legal state is highlighted in applying the law, adjudicating disputes, and achieving justice via the principle of judicial independence and separation of authorities, non-interfering with judges' affairs, and that they should only refer to the law, free from any influences on them. To ensure a strong fair judiciary, attention should be paid first to the conditions that the nominated person should meet to occupy this job other than the required qualities to be met in the public employee in particular. These qualities and conditions should be inherent in the person of the judge throughout his career, and there should not be any defect in any of them.

No matter how much the legal rules require or assume integrity and uprightness in the judge, he remains a human who may do the right things or make mistakes and be wrong in his normal behavior and actions or in his job, which results in a violation in the job duties assigned to him, which would negatively reflect on the judicial integrity and distorts its image. Therefore, the judicial rules in the legislations of all countries are keen to control the judge's behavior, correct and treat his mistakes within the framework of

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legal guarantees that the judiciary resorts to, to achieve justice and impose penalties on violators.

Jordanian legislations, like other ones, have included special laws that address the judges deviations, and correct their situations in a way that protects the purity of judicial authority; they include clear and explicit texts about disciplining and judges and holding them accountable, but this process should be in accordance with real procedures and guarantees that begin from the time the judge is accused, until he is acquitted or declared guilty and imposing disciplinary penalties against him in accordance with the relevant laws and regulations. Consequently, there was the Judicial Independence Law No. 29 of the year 2014 and its amendments, the Judicial Inspection System of the year 2015 and its amendments and the instructions of inspection issued accordingly. The Judicial Independence Law stipulated in Article (49) that in cases other than stipulated in this law, judges are subject to the provisions of the Civil Service Law and any other legislation related to employees.

As it is known, the disciplinary accountability goes through several stages, beginning with directing the charge to the judge, so in this study we will address the stage of investigating the offending judge and hearing his statements based on a set of controls that govern the investigation procedures, the mechanism of that, the body authorized to carry it out and the resulting provisions in the event of conviction, and the effects of that, where investigating authorities consider the guarantees that ensure justice, producing a correct and fair disciplinary decision unlikely to be cancelled.

Therefore, this study will be divided into two sections;

Section one: The entity of investigation and its controls,

Section two: Procedures for disciplining judges.

#### Study problem

A judge is considered a symbol of justice, a realization of rights and the hand of judiciary in implementing the law without discrimination or bias. In order for the judiciary to perform its role without influence or interference, judiciary was granted independent authority, and the legislator created a special law for judges that includes everything related to this category from the time of appointment and during the practice of their job. The legislator also stated how to hold a judge accountable when violating his job duties, and impose disciplinary penalties on him. Through research and review of the Judicial Independence Law, it is found that the most important problems of the study revolve around the insufficient legislative texts that dealt with the procedures of investigation and discipline related to judges, in addition to the lack of clarity of the competent authorities for referral to disciplinary action. A procedural problem also emerged which was included in Article (49) of the Judicial Independence Law as it stated the reference to civil service system and the implementation of its rules, with the big difference between the procedures for disciplining a public employee in general and a judge in particular.

#### Study questions

1. What are the procedures and controls for investigating an offending judge?
2. Who is the competent authority to refer the judge, hold him accountable, and impose disciplinary penalties against him?
3. What guarantees are promised by the Judiciary Independence Law while conducting an investigation with the judge?
4. How are the results of investigation conducted with the judge and dealt with?
5. What are the disciplinary penalties imposed on the judge and the authority competent to impose them?

### Study importance

The study importance lies in explaining the controls that govern the process of investigating the judge leading to the confirmation or denial of the disciplinary violation attributed to him in light of the principle of integrity and independence of the judiciary, knowing the procedures by which the judge is questioned and revealing the most important guarantees in achieving disciplinary justice.

### Study objectives

The study aims to:

- identify the ability of Jordanian Judiciary Independence Law to contain the judges' accountability, discipline them, imposing disciplinary penalties against them, and ensure general rules and full legal guarantees.
- identify the gaps that are not covered by the Judiciary Independence Law, if any, and how to deal with them during the stage of disciplining judges.

### Section One

#### The essence of investigation and its controls

Investigation is considered one of the judicial guarantees that aims to reveal the truth and search for the necessary evidence needed to know the validity of the accusation against the accused, and know how to deal with them. To highlight the importance of this stage in proving or denying the accusation against the judge, this section is divided into three topics: In the first we discuss the procedures of investigation, in the second the investigation controls, and in the third, the investigation guarantees.

#### The first requirement: Procedures of investigation

The stage of investigation has a special importance in revealing the truth in proving or denying the accusation against the judge. There are a set of procedures involved in this stage that fall under the collection of evidence, taking all necessary measures to ensure the achievement of justice, including the preliminary procedures for summoning the accused judge and suspending him from work or arresting him, as well as hearing the witnesses statements, inspecting the places and seizing evidence that may prove or deny accusation.

Due to the seriousness and importance of this stage, Jordanian Judicial Independence Law No. 29 of 2014 and its amendments showed that the process of prosecuting a judge begins as a result of committing a violation of the duties or requirements of his job, which could be either based on a complaint submitted to the Judicial Council against the judge, or based on administrative prosecution by the President of the Judicial Council, the Judicial Inspection Body, or the President of the court in which he works based on the judge's violation of any of the duties and requirements of work, and accordingly, investigation steps can be initiated based on the following cases:

First: Filing against the judge administratively and interrogating him in writing. This procedure is carried out directly based on the action of the President of the Judicial Council on his own initiative, or based on the recommendation of the first inspector or the president of the court in charge as a result of any violation committed by the judge of the duties or requirements of his job (Article 27/ Judicial Independence Law No. 29 of 2014).

In this regard, the President of the Judicial Council assigned the Judicial inspection service, based on one of the inspection reports submitted to him about some of the regular courts, to investigate all the violations mentioned in the report and make the essential recommendations regarding them. Upon follow-up and as a result of investigation, the Judicial Inspection Body found that one of the judges did not adhere to the official working hours, and the sessions were postponed unjustifiably, which constitutes a clear violation to the two Articles (8, 15) of the Code of judicial conduct,

where the incident was reported to the President of the Judicial Council, with a recommendation to refer the violating judge to the Disciplinary Council ( Judicial Inspection Letter No.57/2020 dated 4/11/2020.

Second: Filing a complaint against the judge. Jordanian Judicial Independence Law gave everyone the right to file a complaint against the judge directly to the President of the Judicial Council provided that it includes the name of the person filing it, his details and signature, and that it includes specific incidents attributed to the judge, and the president may decide to file this complaint, or refer it to the Judicial Inspection Body in order to follow it up, verify what is contained therein, and make recommendations regarding (Article 7/A and Article 8/ of the judicial inspection system).

In this regard, the president of Judicial Council referred a complaint to the Judicial Inspection Body, filed against one of the judges with an accusation of influencing the colleagues in their judgment. After completing the procedures of investigation, the Judicial Inspection Body concluded that the complaint was true and the judge had committed a violation bases on the provisions of the two Articles (5/B and 20) of the code of judicial conduct, and it was recommended to refer the judge to the Disciplinary Council, where the Judicial Council agreed on this (the Judicial Council/ Decision No. /21 of 2018 dated 24/5/24).

Third: The judge is caught in the act of committing a criminal offense. Article (28/2) of the Judicial Independence Law gave the Public Prosecutor in cases where a judge is caught in the act of committing a criminal offense when he is arrested or detained to submit the matter to the Judicial Council within the following twenty-four hours, and the council may decide after hearing to the judge's statements to release him or continue his detention.

In all previous cases, the investigation procedures with the judge begin with permission from the Judiciary Council which is the presidential authority responsible for following up the judges' affairs. As is known in various disciplinary systems that the presidential authority is the body that initiates the disciplinary procedures, and therefore the Judicial Council initiates these procedures as follows:

The Judicial Inspection Body shall initiate investigation with the judge complained of by one or more inspectors provided that each of them is higher in seniority than the judge complained of. (Article 7/ Instructions for Inspection of Regular Courts of 2015), with the permissibility of resorting to all means of investigation and calling witnesses and listening to their testimonies (Article 9 of the Judicial Inspection System for Regular Courts of 2015), and restraining the judge from carrying out his job duties during investigation procedures (Article 29/Judicial Independence Law). The judge has the right to review all the charges against him before investigating him, and he has the right to seek the assistance of a lawyer and to present whatever evidence he deems necessary to support his statements. (7/C/ Regulation for Inspection of regular courts of 2015) He also has the right, during the presentation of his defense, to discuss with witnesses and take into account all defense guarantees (Article 27 law/ Judicial Independence Law).

The second requirement: Investigation Controls

Disciplinary procedures against the judges aim to ensure the proper functioning of the judicial facility, enhance work and positive trends in the judicial work environment, raise the efficiency of judges' performance, and ensure their commitment to the rules of conduct and job ethics. Whatever the case, the process of prosecution and investigation in general must be subject to general controls and principles in prosecution or disciplinary accountability as there are strong grounds for accusation, especially since the judge is the symbol of justice and law, and that interrogating him would cause him harm and affect his professional and social reputation. The controls of investigation can be summarized in the following:

First: The authority responsible for referral

Referral to investigation is considered the starting point for initiating the disciplinary procedures, and as a general principle, the authority to refer to investigation is assigned to the presidential authority, which was stipulated in legislation and gave it the power of disciplinary authority. Given the importance of this step and the consequences that may result from it, and according to the Jordanian legislator in Judicial Independence Law and its amendments No.29 of 2014, he gave the Judicial Council the presidential authority over judiciary and following up on their affairs in order to maintain the principle of judicial independence and without prejudice to the principle of separation of powers, as the Judicial Council, in accordance with Article (4) of the same law consists of: The President of the Court of Cassation as President, and the membership of the President of: the Supreme Administrative Court as Vice-President, the Chief Public Prosecutor of the Court of Cassation, the most senior judge in the Court of Cassation, the Presidents of the Courts of Appeal, the Secretary General of the Ministry of Justice, the President of Amman Court of First Instance, two presidents of the courts of first instance outside the capital according to seniority of the date of the establishment of those courts, and they will be replaced upon the expiration of their membership terms by the next one based on that seniority.

The law gave this council the powers to follow-up on all affairs related to the regular judges, including appointment, promotion, upgrading, discipline, transfer, assignment, secondment, termination of services, prosecution, arrest or detention. In cases where a judge is arrested or detained red-handed in committing a criminal offense, the Public prosecutor must refer the matter to the Judicial Council within twenty-four hours, and the council may decide to release or continue his detention (Articles 6 and 28 of Judicial Independence Law).

Article 27 of the same law confirmed that the president of the council, on his own initiative or based on the recommendation of the first inspector or the responsible president of the court, has the right to interrogate and warn the judge in writing about any violation of the duties or requirements of his job, and the president of the council is the only authority entrusted to accept any complaint against judges, and the President may decide to file or refer it to the Judicial Inspection Service (Article/7/A, Judicial Inspection System).

Accordingly, the Jordanian legislator assigned the competent authority to refer the investigation to the Judicial Council, and entrusted conducting the investigation to the Judicial Inspection Body. Therefore, the legislator was right in that in terms of separating between the two authorities of accusation and investigation, so that there would be no duplication or interference in the powers of these specializations.

Second: Summons

The Judiciary Independence Law, the regulations and instructions associated with it or the civil service system did not include specific procedures and formalities for how to summon the accused judge and assign him to appear for investigation. Therefore, the summons is carried out through the usual administrative methods by sending a letter from the Judicial Council to the judge's workplace or through a phone call. This must be noted in the investigation records, especially if the judge refuses to attend to prove the consequent loss of his right to defense, issue decisions to suspend him from work, or impose penalties against him in absentia. We see the need for clear instructions and the resulting consequences regarding the mechanism of summons to appear in the Judicial Independence Law and the related regulations.

Third: Writing the investigation

Writing and recording the investigation is an essential matter in order to be an evidence against all by recording the investigation procedures in special records since writing is the

best means of proof and an evidence to indicate occurrence of the procedures before the investigating authority and their correctness, and to enable the all to refer to it anytime (Yaqout, Mohammed Majid, (2006), Explanation of the disciplinary law of the public jobs, Munshat Al-Ma'arif, p 757).

Writing the investigation is considered a legal principle whose omission results in invalidity without the need to a stipulation, as it is an essential procedure aiming to preserve the interest of the accused or one of the opponents (Al-Barr, Abdel Fattah/ Disciplinary Guarantees in the Public Service, Dar Al-Talif, p 117). Although the Judicial Independence Law and the instructions and regulations associated with it did not stipulate did not stipulate this control, the civil service system in Article/146/B/2 stipulated that the investigation procedures must be documented and recorded and signed by the accused, investigation committee members and witnesses.

Consequently, we observe that the legislator considered writing the investigation obligatory, and transgressing it would result in the discipline decision being subject to cancellation. This is consistent with the principle that the investigation must be in writing in order to enable the accused to record everything related to his position on the violation attributed to him.

The importance of writing lies in enabling everyone to review the facts and circumstances of the violation, and thus serve as evidence for or against the accused without the matter being ignored or forgotten, in addition to the importance of this in judicial censorship (Khalifa Abdul Aziz, Disciplinary Guarantees in the Public Service, p 106).

Fourth: Stop the judge from working

Suspending the judge from working is a temporary precaution measure to which the Judicial Council resorts if the interest of the investigation requires removing the judge from influencing the investigation or its evidence, whether the judge is being investigated criminally or administratively (Tantawi, Mamdouh (2001), The disciplinary evidence, 2<sup>nd</sup> ed., Modern University Office, Alexandria, p. 91). Suspension could be for the benefit of the public facility in which the accused judge works, provided that it is done within the framework of discipline (Al-Ototum, Mansour (1984), The disciplinary responsibility of the public employee, 1<sup>st</sup> ed., Al-Sharq Press, Amman, p. 278).

The Judicial Independence Law in Article (29) gave the Judicial Council the permissible authority in suspending the judge from carrying out the duties of the position during investigation or trial procedures for any violation or complaint attributed to him, either by the council on its own initiative, or at the request of the Public Prosecutor. The council may reconsider this decision at any time, i.e. the period of detention is not specified and is linked to completion of investigation, resolving the situation and adjudicating the charges attributed to the judge.

The researcher thinks that the law did good when it left this issue to the discretionary authority of the Judicial Council, and did not impose or introduce this measure until the council ensures that the judge's continuity in practicing his job might influence the conduct of the violation procedures attributed to him, or that he might resort to it through his job to change facts or hide some evidence, which may influence the course of disciplinary accountability. The law also gave the council the authority to reconsider this decision at any time.

The third requirement: Guarantees of investigation and disposal of its results

The importance of investigation is highlighted as one of the guarantees ensured by the rules of justice and fairness and principles of trials in all stages of the disciplinary violation, which must be taken into account in the disciplinary issue without the need should consider without the need for a legal text, to ensure the integrity of procedures, achieve the principle of legality and the rule of law and to rely on them in creating a

position regarding the conviction or not. In order to explain this, we will present the following sections:

The first section: Investigation guarantees

Investigation guarantees are considered restrictions to limit the arbitrariness of the disciplinary authority, since investigation and directing the violation to the judge includes harm and abuse to the professional and social status of the judge, and therefore this process should be surrounded by all the necessary legal guarantees, some of which are:

First: Committing the disciplinary violation or having a real and not malicious complaint

The judge is prosecuted and referred to investigation when committing a disciplinary violation discovered by the administrative authority to which the Judge belongs, by the Judicial Inspection Service, or by receiving complaints against him, provided that this charge is proven or denied by resorting to various disciplinary evidence and according to the circumstances of the case presented to the investigation team.

The complaint filed against the judge means a notification that an individual submit to the competent authority which results in initiating disciplinary procedures against the complainant regarding actions attributed to him that conflict with the requirements and duties of his job (Al-Mahasneh, Fayez (2015) *Disciplinary Guarantees of the judges in the Jordanian law*, Dar Al-Hamid, Amman, p. 235). Although Article (7) of the Judicial Inspection System has given any person the right to file a complaint against the judge to the President of the Judicial Council, it includes some controls, namely validity and non-maliciousness, and that it be submitted by the stakeholder, a person of known identity bearing his signature, and containing specific facts.

In Article (12) of the Judicial Inspection System, the legislator created a new guarantee regarding the complaint submitted against the judge if it turns out to be malicious, untrue or aims to insult the judge and the Judicial authority, as the legislator arranged referring it to the competent public prosecutor for judicial prosecution in accordance with the rules.

The wisdom of the legislator regarding this guarantee is observed, which prompts caution and deliberation for everyone who dares to challenge the integrity of the judiciary and those in charge of it, and not to provide any information that may offend the person of the judge unless the facts are real and reach the stages of accusation, and the complainant does not expose himself to accountability and judicial prosecution. We wish that the legislator had imposed a severe penalty for maliciousness and specified it explicitly and clearly, so as to eliminate doubt for anyone who tries to distort the judiciary or harm its people.

Second: The judge is administratively interrogated

Interrogation is confronting the accused with the violation attributed to him, and he is asked to give his opinion, respond and defending what has attributed to him, argue his behaviors, presents any evidence denying the accusations against him to reveal the truth, decide his responsibility for the violation or not or know the conditions of the violation , any partners or other parties in it, as interrogation should be through directing certain and frank questions about the accusation attributed to him without any obligation or pressure (Yaqout, *Investigation in the discipline violations*, previous reference, p 311, Qubailat, Hamdi, (2010), *The administrative Law*, part 2, p 203). Believing in the importance of this in the investigation, Article (27) of the Judicial Independence Law confirmed that the President of the Judicial Council by himself or based on the recommendation of the first inspector or the responsible president of the court, has the right to interrogate and alert the judge in writing about any violation of the duties or requirements of his job.

### Third: Confrontation and hearing the accused statements

Among the requirements of achieving justice is informing the accused with the accusation attributed to him clearly and frankly, inform him with all related evidence and all documents indicating that he committed the violation before investigating him and notifying him that the administration is going to interrogate him if all the evidence is preponderant, in order that he can defend himself (Ajarmeh, Nofan, Authority of disciplining the public employee, Dar Al-Thaqafah, 2007, p420).

The Jordanian judiciary confirmed that “Among the established legal principles in jurisprudence is that it is not permitted to impose punishment on the employee unless he is questioned about what is attributed to him and confronting him with the violation charged to him, since it requires that the investigation must be carried out within the limits of public principles, considering the basic guarantees that ensure the employee the right to defense so as to achieve justice (Supreme Justice/12/1998, Bar Association Magazine, 1999, Iss.1, p571).

### Fourth: Right of defense

Right of defense is considered from the public principles of law and the most important guarantees that should be offered to the accused, and enable him to respond to accusations charged against him through all legitimate means. The meaning of right of defense may extend to include all investigation guarantees, so great guarantees established under this meaning (Al-Otoum, The disciplinary responsibility of the public employee, previous reference, p 322). Among the most prominent provisions of the right of defense is the presence of the accused in person or the assistance of a lawyer, presenting whatever evidence he deems necessary to support his statements, discussing witnesses, and defending himself by all means, whether written or orally. The Jordanian legislator has guaranteed the judge these rights taking into consideration all defense guarantees for him in Article (27) of the Judicial Independence Law, and Article (7/E) of the Judicial Inspection System, in addition to civil service system which included it in Article (146/B/1) which indicated that the referred employee to investigation has the right to review all the violation papers or the complaint attributed to him, and allowing him to present his defenses and objections to them and discuss with witnesses.

### Fifth: Impartiality of investigation members

Impartiality is one of the principles of justice, which means non -tending towards any party in the dispute for personal or interest considerations, or any other inappropriate ones, and thus the investigations bodies must be characterized by impartiality, integrity and objectivity (Rabea, Zeyad (2023), The independence and justice of judiciary, Iss1, Dar Al-Badil, Amman, p 414). In order to achieve this, we find that this principle is based on the following elements: not to combine the power of accusation and the power of investigation, as the Judicial Independence Law differentiated between the two powers in the presidential accountability since it assigned the power of accusation to the president of the Judicial Council, while the power of investigation it was assigned to one or more than inspectors of the Judicial Inspection Apparatus )m/7/ Instructions of inspection on the regular courts of 2015). The law also separated between the two powers in the disciplinary council; it assigned the power of accusation to the Judicial Council, it assigned the power of investigation and issuing the disciplinary penalties to the disciplinary council in the stage of discipline, as there are no personal, job, political or racial considerations and others between the power of discipline and the judge whether its tendencies to its side or against it (Al-Bahi, Sameer Yusuf, Rules of the disciplinary responsibility, 2002, Law Bookshop, Cairo, p 142).

### Respond of the investigation members

It is assumed that the investigator asks to step down voluntary if it is found that he has any relationship with one of the opponent parties, and he will take sides, and in case that

the judge does not submit this request, the parties to the dispute have the right to request the judge's dismissal and prevent him from hearing the case (Rabea, *The Judiciary independence and justice*, previous reference, p 435). Based on this, Article (7/B) of the Judicial Inspection System confirmed that the investigator is prohibited from carrying out the investigation if one of the stipulated cases of invalidity or rejection is achieved in Article (133) of the Code of Civil Procedure, and with regard to the framework of neutrality, Article (7/2) of the code of judicial conduct stated on that the judge must voluntarily withdraw from hearing the case if he senses embarrassment and the legal reasons were available.

The Civil Service Law confirmed in Article (141/A/2) the need for providing the following guarantees, including: "The heads and members of the investigation committees or the disciplinary council formed, either of them in accordance with the rules of this law, must step down in cases where there is a kinship relationship or personal considerations that would influence the procedures of the investigation or implementation of punishment. In addition, everybody who participated in the stage of investigation, accusation or witnessing is not permitted to consider in implementation of a punishment or judged it, and Article (34) of the Code of Civil Procedure allows the respond of a judge in the cases defined in the law, so that the respond request is submitted to the head of the disciplinary authority.

#### Sixth: Listening to witnesses

Testimony is considered among the important proof of evidence in all stages of disciplinary violation, and it is for a person other than the parties of the dispute to give testimony about what he saw or heard by himself or realized in general with his senses about the violation or the one who committed it through any matters not proved by papers or documents (Yaqout, *Explanation of the disciplinary law of the public job*, previous reference, p 791). Among the important guarantees of the matter of witnesses is that the witness gives testimony under oath, and the witness is discussed with all his statements and record them in the investigation report (m/146/1, civil service system).

#### Seventh: Taking into account the form and procedure

The importance of taking into account the form and procedures mentioned in the Judicial Independence Law and the related instructions and systems regarding investigation from the beginning of receiving the complaint or the presence of the behavior violation of a judge, then permission to conduct investigation and allowance to the accused to review the papers of the accusation, confronting him with them, listening to his statements, giving him the right to discuss the witnesses, presenting any evidence to deny the accusation against him and write this and documented it in the investigation report, as all of these are procedures that should be taken into account, and every procedure in them forms by itself a guarantee requires commitment to it to ensure the suitable conduct of disciplinary accountability, and not expose it to appeal or cancellation.

#### Eighth: Cause of disciplinary penalty

It means mentioning the reasons which the authority of investigation is based on in its decision after the end of the investigation where the recommendation is taken based on them. It is noteworthy that this guarantee is existed when the investigation team or the disciplinary council issues the penalty.

#### The second section: Acting on the results of investigation

After finishing investigation and checking the validity of the fact, the stage of adapting the state comes as it is considered a disciplinary violation or denying it, then presenting the proper recommendation about it with respecting all guarantees, controls and rules, as the inspector submits the papers of the investigation to the first inspector who which in turn submits the proper recommendation to president of the Judicial Council

accompanied by one of the following propositions: first, imposing a warning penalty against the violated judge. Second, referring the judge to the Disciplinary Council, as the violated judge is referred to the Disciplinary Council if the Judicial Council found that the violation attributed to him requires a penalty more severe than those penalties that the council can impose. Third, saving the papers because the facts attributed to the judge are incorrect, the evidence is insufficient, the violation does not require to prosecute the judge Disciplinary, when the judge submits his resignation or requests to be referred for retirement, and the Judicial Council agrees on this or the complaint has been registered for more than three months without a visit from the complainant (m/10, The judicial inspection system).

The researcher thinks that the judiciary is criticized because it allows the judge to submit his resignation during the procedures of discipline and stop the disciplinary prosecution, which gives the judge a chance to resort to this step out a desire to get rid of or evade the expected punishment against him. Therefore, we think the legislator should follow what the civil service system has adopted in not accepting resignation or referral to retirement during the disciplinary prosecution (m/150/E, Jordanian civil service system).

Fourth: In all cases, the Judicial Council has the right to file the complaint, or, if it is serious, the permission to prosecute the judge in accordance with the rules, and take the special measures against him whether arresting, detention or releasing him (m/28/B/ The Judicial Independence Law).

The second topic: Procedures for disciplining judges

The Jordanian legislator adopted in selecting the disciplinary authorities regarding the disciplining judges the two styles of the presidential authority through the administrative president, and the disciplinary council, which is the same position that the legislator adopted in the civil service system regarding disciplining the public employee with a difference in forming the disciplinary councils between the public employee and the judge. To highlight the acting on the results of investigation n and referring the matter to the disciplinary council, this topic will be divided into three requirements, as the first requirement deals with referral to the disciplinary council, the second requirement deals with the essence of the disciplinary council of the judges and the third one deals with the procedures of the disciplinary trial.

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