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Judiciary Systems in Jordan and Romania

Comparative Study

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Abstract

This dissertation discusses the judicial systems in both countries the Hashemite Kingdom of Jordan and the Republic of Romania. A comparison and contrast is conducted between the judicial systems in both countries. After relevant and extensive literature review, the results revealed the presence of similarities and differences between the two systems.

In regard to similarities, both countries have a modern and effective judicial systems to protect and defend the right of their citizens. Both countries have excellent relationship that enables their citizens to exchange educational, judiciary, and to explore each other's legal system. In regard to differences, it can be summarized by several factors such as: Romania is larger and older than Jordan, also Romania has been influenced by history, political, religion and modern day effects more than the relatively new country of Jordan.

Consequently, researcher recommends for further studies to be conducted by Romanian and Jordanian researchers about each other's country. This will allow us to better understanding each others for the purpose of learning other peoples' experiences and benefit from it.

Chapter One

The Judicial System in Both Countries

Jordan and Romania

A Comparative Study

1-Proposal of the Study

1.1- Introduction:

The main reason for me to selecting this subject is my love to the two countries, whereas, Jordan is my home country, and Romania, is my beloved second home, where I spent a great amount of time in, enjoying and benefiting from its educational institutions and great people. The other reason is, I have spent a great part of my life studying and practicing law, therefore, I am eager to keep going in my higher education until obtaining my PhD, from one of the world's prestigious universities and under the supervision of distinguished professor Les.

This dissertation aims at examining and investigating the judicial systems in Jordan as well as in Romania.

As it is known, modern states are run by laws; these laws aim to protect people's rights. Matter of fact, humans from old, have attempted to articulate and implement laws to organize, protect and have order and tranquility in their life. Thus, it has become a norm or solid tradition to have people resort to judiciary instead of taking the law into their hands and try to attain their rights by illegal means. At the same time, courts allow to appeal or contest against a judgment, especially Judgments by court of peace, because the main objective of the court is to have Peace between the parties-

plaintiff and defendant as well - and to have them attain their rights completely. Thus, every citizen, whether in Jordan or Romanian, has the right to achieve their objectives through legal action. At the same time laws in both Jordan and Romania make it possible for people to have equal hearing in one condition have both parties - plaintiff and defendant- personal interest, direct and standing case. Also the law has made it equal between the two parties in terms of the results, whereas both or any have the right to not accept the court's judgment in case there is a lack in legal criteria.

From my own experience as judge, I know as well as everybody else that both countries legislators are dedicated to have modern and democratic laws that are tailored to serve and protect citizens, and have every citizen in both countries be equal under law. Consequently, courts do not impose its decisions arbitrary rather it follows current laws, court proceedings and due process. For example, there are courts at different levels to handle cases according to case type, for example, peace court, or first instance courts look into civil and criminal cases. What I like about these courts is their appeal procedures where contestants accumulate and provide all means of defense for their appeal to defend their rights or to prohibit the rival from obtaining any favorite judgment, also to respond to the rival's claims, allegations or demands. Consequently, the means which the rival uses to contest the soundness of the rival's procedures come in three types, and this is what is practiced in both countries.

Chapter Four:

A comparison study between the Jordanian's judicial system and courts versus the Romanian's law and courts.

Chapter five:

This chapter consists of study's discussion, results and recommendation. From my experience and practicing law as a judge in appeal court, I have witnessed the great development of laws in both countries, and the presence of differences and similarities of laws in both. Laws may differ in most countries but all have common purpose that is serve and protect. If we take the simplest version of law, namely conciliation we find it every judicial system, for example, in French legislation, article 2044 of civil group, In the Egyptian definition of peace that each party waives some or part of their rights (article 652/532). In addition, reconciliation in the Jordanian law is a contract of peace (549-557) civil; it is obligations and personal rights for example: contract over ownership it does not transfer the ownership (from party to another). In Romania conciliation reveals rights but does not transfer such rights; contract of this type contains to waive part of claims of rights.

In addition, the judiciary system in Jordan is derived from the French law and has been adapted to the Arab customs and tradition, and now is being influenced by Western laws and human rights such as the call to cancel articles 290 and 308 from the penal code because these two articles are vividly show extreme discrimination against Jordanian woman. Truly, I am one of those who condemn such articles, and calling for their elimination.

1.2 Organization of this study:

This study is organized in the following manner:

Chapter One

Consists of the following:

- 1- Proposal which is developed according to scientific research

standards.

The study's proposal consists of: Introduction, the problem of the study, objectives of the study, significance of the study.

Chapter Two:

Judicial system and courts in Jordan

Chapter Three:

Judicial system and courts in Romania.

Chapter Four:

A comparison study between the Jordanian's judicial system and courts versus the Romanian's law and courts.

Chapter Five:

This chapter consists of study's discussion, results and recommendation.

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Saudi Arabian's judiciary system is derived from the Islamic faith, mainly the holy Quran and the Prophet Mohammad (P) teachings.

In regard to the Romanian judiciary system we can notice that it has been influenced by several factors such as: Its long history which has long periods of time such as": The empire and the church, and being part of former USSR and Communism, and now as a member of the European Union.

1.3- The problem of the study:

The problem area, which this dissertation examines, is the judicial system in Jordan with extensive details as well as the Romanian judiciary system.

Thus, the problem of the study as I articulated after extensive literature review relevant to both countries Jordan and Romania can be summarized as the nature of the Jordanian judicial system and Romanian judicial system and a comparison between the two systems.

In order to clarify the problem of the study, this thesis will answer the following questions:

1- What are the factors affecting the judicial systems in both countries in terms of political, economic, social and cultural aspects?

2- What makes the judicial systems to be effective and successful in

order to fulfill the requirements of nowadays demands?

3- What are the roles of law scholars, academicians, and legislators in enhancing judicial systems in both countries?

1.4- Objective of the study:

This thesis aims at achieving the following objective

1- Examine all issues relevant to judiciary systems in both countries Jordan and Romania.

2- Investigate the cultural, social political environments that surround judicial authority in both countries including courts system and the legislative authority structure. And the nature of elements that courts operate through.

3- Examine the history of Judiciary systems in Jordan and Romania, and the effect of other judiciary systems in other countries or cultures on both Jordan and Romanian's judiciary.

4- Reveal similarities and dissimilarities between the two judiciary systems in Jordan and Romania as well.

1.5 Importance of the Study

I consider this thesis is important because it discusses an important issue that is the judicial systems in the countries of Jordan and Romania.. This study is unique because it gives the Jordanian audience the opportunity to have an idea about the judiciary system in Romania in general. The same is true for Romanian audience to know the nature of the judiciary system in Jordan.

Moreover, for the best of this researcher's knowledge, there is no studies discusses the Romanian's laws and compare it with Jordanian's.

Thus, it will attribute to relevant literature with a unique study that can be a guide for people interested in the subject and for future researchers as well.

1.6- literature Review

This study relies heavily on relevant literature in both countries whereas two chapters are designed for this purpose: one, for literature review and theoretical frame work in Jordan, while the other chapter is for literature review in Romania. The two chapters will be enriched significantly with literature relevant to the study's problem. in both countries. This study relied heavily on the writings and publications of Professor Loan Les to cover the Romanian part of this study.

1.7- Methodology:

In order to achieve the objectives of the study; this student relies heavily on collecting data for the theoretical framework mainly literature discusses the nature of judicial systems, in both countries Jordan and Romania. Previous studies will be cited from both countries and this entire theoretical framework will be supported by examples such as: Jordanian Cassation court decision (Civil) no.3951/2014Date 18/2/2015. Another example is, "decision is made by Amman First Instance court no. 2474/29013on 28/11/2013 in person, plaintiff is notified on 23/12/12013 and contested it through appeal on 4/2/2014.Thus, the appeal is out of date for the legal appeal procedures to go through, consequently, the appeal is turned down."

In summary, it has been noted and has become as a legal norm that, in any court case, including civil or criminal judgment are subjected to two

principles or rights, first of the right to review the court's ruling through higher court. Another reason is to assure the decision soundness and being issued according to legal principles and current laws. This principle is written in the second article of protocol 7 of the European agreement for human rights. The said article states, "every human is convicted of a crime by legal means has the right to re-consider court decision by higher court." (Shams eldeen 1989) I believe that one of the greatest service judicial systems provides is the appealing of a decision to a higher court which differs from ruling's objection. Objection takes place in the same court not by higher court. Objection through appeal is an attempt to correct court's ruling (if any) through reviewing the case by a panel of justices whose number is more than the court which issued its judgment in the same case. Also appeal judges are more experienced that assure reading the truth whether the mistake contradicts law or mistakes in evidence or other procedural mistakes. Most the time, appeal decisions have bigger chances to be correct and wise decision, for several reasons:

- 1) In first Instance court there is usually one judge resides on the bench, while in higher court three judges.

- 2) There is possibility that lower court judges have not enough or sufficient expertise. In contrast higher justices are more experienced.

- 3) First Instance court reviews the case for first time, and maybe it misses element that can be important. Unlike appeal justices who review the rulings in looking for mistakes committed (if any) by lower court.

The same is true for the similar Romanian law.

Chapter Two

Judicial System in Jordan

Judiciary independence

The independence of justice in Jordan has been improved due to the authority division: specialists and law enforcement and judges. This means that the law is enhanced by other specialists, as stated in Article 97 of the Jordanian Constitution. Article 3 of the legal autonomy of law no. 15 of 2001 guarantees legal independence. In addition, Article 101 of the Constitution states that the courts are open to all and protected from the resistance of one's commitments, for example, Administrative and official branches of the government cannot appoint judges or fire them except for King.

Equality in Judiciary

Equality is very important in the judicial system; It is the cornerstone of public and private law. However, the use of a wider statement, to include equality to be under judiciary and law is more appropriate.

All the constitutions of the world are devoted to this principle, including the Jordanian Constitution, as stated in article 6 and Article 5.

Judiciary services are free of charge

As I see it the following paragraph is a universal .Since all citizens are equal before the judiciary, justice is a guaranteed right to all people without discrimination; As a result, people do not pay in turn to receive judicial services. In other words, judges are not paid for their work by people; rather they are providing public service. However, pursuant to Articles 161 to 167 of the Civil Service tribunal, legal costs and attorney fees are paid by the losing party.

Litigation is conducted on two levels:

This concept means that the law allows a person or party who fails to get a

favorable decision from the court favoring filing a lawsuit before a court to reach a final decision. In other words, the case is filed before a court called a court of first instance; the losing party has the right to bring the case to a higher court called a second instance court, through a process called opposition to appeal.

Multiple judges/one judges

Different judges refer to the contention or question to a court with few judges to investigate it with the ultimate goal of resolving such confrontation, even for the first instance courts. While different judges will be used for the courts of appeal and Court of Cassation. Literature I have reviewed to enhance my skills in court, I have noticed that some countries use the principle of one judge, while others use multiple judges in their courts.

Judge Responsibilities and Accountabilities:

Beside applying laws with all transparency ,fairness and equality , and be devoted to serve citizens' protection and getting their rights .Judge in his court, whether in Jordan or Romania uses his/her leadership quality (decision making, problem solving and justice is served).In addition, judge is responsible to carry pout court's duties and responsibilities according to court type as follow:

The magistrate judge has jurisdiction and carries out over minor criminal matters, such as misdemeanors or crimes where the sentence cannot exceed two years, and civil matters where the amount does not exceed 7000 Jordanian Dinars.

The Courts of First Instance and their judges have jurisdiction over more serious civil and criminal matters. They will hear civil cases where damages exceed 7000 Jordanian Dinars and criminal cases where the

punishment may exceed two years of imprisonment. These courts also play a limited appeal function from minor criminal cases in the magistrate courts. In the courts of first instance, criminal matters are heard by a two-judge panel and civil matters are heard by one judge.

Within the first instance courts is a Major Felonies Court. Its jurisdiction is limited to a specific set of serious crimes, all with potential sentences of more than three years. Cases in this court are heard by a three-judge panel.

The appeals courts and judges hear all appeals from the Courts of First Instance and the magistrate courts. Unlike American appellate courts, these courts apply a de novo review: a three-judge panel may review issues of fact and of law in each appealed case

The Court of Cassation and its judges hear appeals on felony criminal matters and on civil judgments exceeding 10000 JD (about \$15000 USD). The court may hear other cases at its optional discretion. It also decides on jurisdictional disputes between the lower courts. Cases are heard by at least 5 judges.

Judges Accountability

Judges report to court president, however they are accountable to judiciary council which evaluate judges' performance, also they are accountable to the ministry of justice. Ministry of Justice is in charge of judiciary in Jordan, judges' accountability included. Most importantly, judges consider they are accountable to the king. The reason for that is, in every order or decision they make, their judgments starts with” In the name of king Abdullah II, this court orders the following...”

Judges Disciplinary and patrimonial

The current regulation requires that all first instance court judges ,execution judges, appeals court judges , attorneys general, and prosecuting judges be evaluated "at least" once a year .The Inspector is charged with evaluating the proper application of the law and procedure in the cases , fulfilling the litigation and evidence rights , reasons for postponements , the time period needed for issuing a judgment , the grounds for the judgment ,the soundness of the decision , and the percentage of cases decided during the year Pursuant to Regulation 47 , the Inspection Directorate is also charged with the responsibility to investigate specific complaints made against judges . The complaint must include specific identifying information about the complainant. If the complaint concerns a postponement of a case , the inspector "may study the file from this point of view and write a report" ;if it involves personal behavior the inspectors to write a report that is sent to the Chief Justice . The Inspector has the power to issue subpoena as , review all materials relevant to the accusation ,and "use all investigation methods "to conduct the investigation . If the inspector determines that the complaint was made in bad faith the accuser is referred to the Public Prosecutor.

Judicial promotions are governed by Articles 19to 21 of the Law of2001. According to Article 19, "judges are promoted to higher levels based upon credentials and excellence of service that are assessed by the {Judicial} Council and according to the reports of inspectors that describe their functions "and" any disciplinary penalties "are to be" taken in to account". Judges may not be promoted until he/she has served at least three years at the judge's current level. There are 6 levels of judicial rank and

5 judges begin at level 6. To be promoted from level two to level one and from level one to the "distinguished level", one must submit an approved "judicial research."

It required that the reports of the Inspectors be submitted to the Minister of Justice. The new regulation, Regulation 47 (2005) which replaced Regulation 12, provides that the report be provided to the Chief Justice of the Court of Cassation. Any objections to the report are to be resolved by a committee comprised solely of judicial officers. The previous Regulation had included the Attorney General as one of the committee members.

prosecutors' Responsibility/Accountability

Prosecutor or sometimes called attorney general has great and complicated responsibilities which can be summarized in a simple statement that is, "secure a complete and sound case to be submitted to court for the purpose of "justice is served". In addition, prosecutor's duties are:

- 1- Secure safe and sound evidence.
- 2- Secure effective witnesses.
- 3- Have complete, accurate and relevant procedures and documentation.
- 4- Apply the proper and relevant laws in every step of prosecution process.
- 5- Collaborate and cooperate with other public security agencies.

Accountability

Public prosecutor report to public prosecution headquarters.

Judiciary Publicity

Court sessions, proceedings and all aspects of the dispute must be conducted in public (Article 2/101, 1/71) According to Article 2/158 the court must make its own decision or verdict in public. These

articles are similar to those of Egypt 169 of the Egyptian Constitution and Article 174 of the Egyptian commercial law. This is a universal judiciary rule Romania and Jordan included.

Types of Courts in Jordan

The courts shall be divided into three categories: Article (99):

- i. Civil Courts
- ii. Religious Courts
- iii. Special Courts

Basic courts fuse initially level courts (Magistrate Court and Court of any case Instance), second level courts (Court of Appeals) and the Cassation Court, which is the most hoisted lawful body in Jordan. The High Court of Justice is the administrative court. The religious courts fuse the Sharia Courts, which consider matters of individual status for Muslims they fall under the supervision of the Department of the Chief Justice. Religious courts moreover join administrative courts, which consider matters of the religious courts incorporate the Sharia Courts, which consider matters of individual status for Muslims and fall under the supervision of the Department of the Chief Justice. Religious courts likewise incorporate clerical courts, which consider matters of individual status for different religious groups in Jordan. Each ministerial court is regulated by the chamber of the individual religious group.

Article 99 of the Constitution removes the courts in three orders: normal courts, religious courts and phenomenal tribunals. Regular courts join the courts of first instance (Magistrate and Court of First Instance), second instance courts (Court of Appeal) and Court of Cassation, which is the most marginalized legal organ in Jordan. The Supreme Court of Justice is the final court.

Religious courts consolidate Sharia courts, which consider issues of individual status to Muslims and are under the supervision of the Department of Justice. Religious tribunals also blend in the same way the clerical tribunals who consider the issues of individual status for various religious gatherings in Jordan. Each clerical tribunal is ruled by the leader group of the single religious meeting. According to Article 99 of the Constitutional Courts in Jordan there are three types:

As regards the judges of these courts, the constitution is clear in the representation of the status of judges, in particular in Articles 97 and 98, as it is taken: the judges are independent and, within their legal limits, are in danger of no Power other than that of the law.

Judges of civil courts and Sharia may be delegated and rejected by a Royal Decree, in accordance with the law.

****Special Courts**

The other courts in Jordan are limited to specialized or specific jurisdictions. A military court deals with offenses involving military personnel and with national security crimes (smuggling, bribery of public officials, etc.). Land settlement courts administer claims of ownership over unregistered land. An income tax court deals with valuation disputes. There is a primary and appellate court for customs disputes as well.

****The formation of Juvenile Courts:**

According to article seven of the currently enforced Jordanian Juvenile's Law (every regular court that looks into juvenile cases is considered a (juvenile court).The court is not considered as such if the juvenile is accused in association with a non-juvenile , provided that proper procedures are observed regarding the juveniles...) . It is clear from this text that the juvenile court under the Jordanian law is any regular

court before which the juvenile appears. So the presence of the juvenile defines the description of the court.

****Labor law**

In Jordan labor affairs and their regulating laws are under the supervision of ministry of labor.

There are local labor with special laws regulate their affairs and more than two million expatriate workers from Egypt and house maids from south east Asian countries.

Ministry of labor looks into and resolves their disputes with employers. In addition regular courts look into their disputes.

****Family law**

Islamic or Sharia courts look into, and have jurisdiction over family affairs such as Marriages, divorce, inheritance, child custody and other similar issues involve families. Christians have their own courts to look into family's affairs.

Commercial Law

Jordan has excellent and modern laws that regulate:

-Internal economy with all its sectors

-Imports and Exports

-Commercial treaties with foreign countries such as

1-Free trade with the USA, Trade partnership with European Union, and its WTO Membership.

Foreign Investment and joint ventures. In addition, Jordan has practical and modern arbitration center to serve domestic and international trade disputes

2- The Judicial Council (Supreme Judicial Entity) is established by law. It will be responsible for matters relating to civil judges.

3- Subject to paragraph 1 of this article, the Judicial Council has the sole right to appoint civil judges in accordance with the provisions of the law.

In my opinion, Jordan can be classified as a mixed jurisdiction that has Islamic law, civil law and common law as building blocks. During the time of the Ottomans, the French version of civil law was imposed, after which Jordan practiced significant common law influence for the period of British control. After independence, progress was made away from the common law and new laws were built. For example, commercial laws, maritime law, are mostly derived from French law; part of the Civil Code is derived from Islamic law (Shari'a) while the other part is mostly based on the Egyptian Civil Code which, in turn, closely follows the French legal tradition in respect of civil law matters; arbitration law is based on English law; family law is entirely derived from Islamic law (Shari'a).

According to the Constitution, there are three types of courts in Jordan. Firstly, Regular Courts, which have jurisdiction over all persons in civil and penal law matters. This includes cases filed by or against the Government. The said Courts apply private international law principles. Secondly, Religious Courts, which are of two types: Shari'a Courts and tribunals of other religious communities. Thirdly, Special Courts, jurisdiction of these courts determined by Laws especially enacted for this purpose. For example: Military Court. Regular Courts divided into: First Instance Courts, Courts of Appeal and the Court of Cassation. In addition, there is an Administrative Court which is called the High Court of Justice. This Court hears challenges to administrative decisions that are taken by the

Government or any of its bodies against an individual or a (private) legal entity.

Judicial Council in Jordan

The JC is composed of eleven judges , the President of the Court of Cassation , the President of the Supreme Court , the Attorney General to the Court of Cassation , the two most senior judges of the Court of Cassation , the three presidents of the Courts of Appeals , the most senior inspector of the ordinary courts , the Secretary General (amin'am) of the Ministry of Justice and the President of the Court of First Instance of Amman (art.4) . The way the judiciary council get selected effects its fairness in dangerous manner. As no judge get elected in the council. They get selected as per the head of Judiciary council wishes. The head of the cassation court is normally the head of the judiciary council as her gets appointed or dismissed by a royal decree. Also the head of Supreme Court get appointed based on the head of judiciary council a royal decree. The secretary general of the ministry of justice get appointed via the judiciary council after a recommendation from the minister of justice. The judges get appointed from the judiciary council (in past via recommendation from the minister of justice). The role of the judiciary council is to directly oversee the judges which includes appointments, promotions, transfer, and retirements. The judiciary council head enjoys the power to transfer judges for special missions to support normal and special courts to act on behalf of the attorney general. Also to inspect things when necessary or needed. Normally the period for the special mission are not to exceed three months per year.

The judges promotions is based on recommendations the judiciary inspection management which was before in the ministry of justice under the minister of justice jurisdiction.

Disciplinary measures:

The head of the judiciary council is in charge of managing the judges. He is responsible to send them warning letters regarding their conduct related to the courts as per article 27 and 28 of the independence of the law. A joint disciplinary committee gets formed to judge the behavior of the judges based on reports from judicial inspector services. The decision made by the committee if it includes a dismissal penalty then it require his majority the king approval.

Courts in Jordan are as follows:

1-First Instance Courts/ Conciliation courts:

2.11.1 Reconciliation Courts:

The compromise courts are built in governorates and in areas of the entire kingdom. A judge resides in such courts known as a judge of compromise or justice.

The admissibility court has cases as defined above in Article 3 of the Recruitment Tribunal. (15) of 1952 and its amendments, for example,

1-Rights and exchange of cases, with the mentor's estimate does not exceed 7.000JD

2-Corresponding cases, whatever the estimate of the request 7,000.

3-Declaration of unemployment and damage, should not exceed (7) thousand dinar.

4- Unemployment and damage.

5- Whatever is widened from the first case: benefits, unemployment, damage, collecting and costs, whatever the estimate is.

6- The important complaint to run right, passing right, drinking right that its owners were denied to use.²⁷

7- Lawsuits relevant to retake over a real estate which was taken by owner, regardless of that real estate value, in a condition not ruling against the real estate. 8- Lawsuits relevant to a leased evacuation which may not exceed (7) thousand dinar.

9- Have a lien on fixed and non-fixed assets as precaution for other case. 10- Lawsuits relevant to fixed assets division regardless of its value.

This partitioning of property is subjected to a condition that choice of settled property choice must not be made inside urban zoning.

11- Dividing settled property if such property is distinct paying little mind to their esteem.

They seem pertinent to the transitional experience, ideal for drinking that its owners have denied using it. The constraints applicable to the land taken by individuals who make it difficult in any case to estimate the land without the court being included in the property claim decision include rented land rent if the estimate of the lease does not exceed seven thousand, Establishing resources whatever their estimate, putting their hands or having established and unresolved permits also helps, the law enforcement tribunals have premises to investigate all cases of work and issues of understanding in Article 37 / An of Work no. 8 of 1996 which states:

"Appeals courts have competence to investigate serious labor dispute cases apart from the claims for compensation."

The offensive party must appear in court and has no obligation for a

legal advisor to speak or protect it. The judge must do his best to influence the parts that are needed to compromise. With regard to the possibility that the judge prevails in this, a peace-making agreement is concluded and the sentence is final; It is not reasonable to propose the placement agreement by law. The judge has the privilege of secretly directing judicial proceedings with the ultimate aim of maintaining the open request or the family matters that justice has instructed to investigate on the cases involved: false declaration, false promise in cases.

As noted above, the open courts are two:

The courts of first instance or first instance incorporating appeals tribunals and first instance courts.

2- Second instance courts, including the appeal court, the court of cassation and the high administrative court.

The jurisdiction of the place of conciliation is determined and performs its functions under Law no. 15 of 1952 and its amendments. Especially the articles (3, 4.5) C The conciliation judge has jurisdiction over the following:

1-Judicial Law:

Commercial rights and conventions provide for a debt in kind of fixed or non-immovable property, in a condition that does not exceed the value of Jordanian seven thousand dinars. The suffering damage and the fact that it cannot work, provided that it does not exceed its value of seven thousand Jordanian dinars.

Reconciliation varies by treat or award / gift, however, the sale, the trader is obliged to exchange the responsibility for the fiscal ideal, as a final result of money or money by the buyer (item 418 Common) while the gift It is an agreement that gives a definite ideal to give all that it enjoys with

money has a place with him without redemption (Article 486 civil). So reconciliation is wrong for bargaining or giving. As stated before reconciliation, the parties concerned should postpone part of their request or their request or give up two meetings.

2 Reconciliation principles:

Principles of Reconciliation consists of : consent , disputed right, cause, Reconciliation confirmation and Reconciliation interpretation .

Consent:

The compromise agreement is an agreement of consent, so positive reaction and recognition are sufficient to have a reconciliation contact. In this way he intends to have an accommodating contract. The subjects in question agree to welcome them to conclude their debate, with the exception of a part of their request (Article 550).

- A similar article (550 common) states that anyone in reconciliation needs to be qualified to give up a fair share of them. Those who are the minor, individual or forwarder with Chapter 11 (Article 550 of Act 17 of 1999) have sentenced errors.

Disputed right:

According to article 549 that, on the main reconciliation contracts principle is to have a disputed right.

Cause:

The reason for reconciliation is the element which causes the reconciliation when he parties agree to waive part of their demand so as to terminate their dispute is a cause for reconciliation. Other cause is the willingness of disputed parties not to Resort to the court of law to settle their dispute, this cost money and time, Thus, Reconciliation contract must be in writing or by witnesses.

Contestation Theory:

Contestation as a part of court's strategies has a few angles and criteria: According to article 211 of court's procedures law, "It is not reasonable to challenge court's judgment aside from the individual or element that the court's judgment is against", or the respondent who lost the case, victor of the claim can't matter a contestation lea. The article 211 indicates these as take after: - Contestant or contestation's initiator: a few criteria must be available keeping in mind the end goal to have the privilege to challenge court's judgment:

- Has to be party in the question.
- Court's judgment is against him/her.
- Has not acknowledged the Court's judgment.
- Has to be legitimate and rationally fit and qualified.

Contestation eligibility:

- Be actual part in the law suit in which judgment has been issued. Judgment is ruled in his favor. Must be legally eligible.

Courts of Appeal

Legal Provisions: (Appeal Articles):

The Jordanian courts, judges and subjects have a right of interest that - through consistent corrections - through the law of appeal 46 for the year 1972 and its provisions, the partners found a pleasing and reliable base in 1972 and its mode, partners find a nice, proven and true base that makes them solve their question.

Articles (205,206 up to 230) state that all cases of compromise courts (peace) and first instance court are qualified for the offer. Likewise, these articles are called bid Articles as they clarify the distinct parts of offer in Jordan, for example:

If the two associations allow them to resolve their claim by the Peace Court or the first instance courts, without the court's interest, such meetings have no privilege to present their legal cases.

Appeal duration is 30 days from the date that the parties are notified by courts verdict. If the party who is willing to appeal the case, and submitted a petition for post postponement of fees. The date in which he submitted such petition till the date of court's decision issuance will not be counted from the certain duration of appeal submission.

The death of either involved parties or bankruptcy during the appeal duration, the heirs will be notified by the court.

According to Act No. 46 for the year 1972, the defendant has the right, even after the expiring of appeal duration to submit within one week from his notification of appeal document, to appeal court asking to have the appeal decision to be in his favor .

Appeal principles (procedure)

1. An appeal petition is submitted to court's chief clerk.
2. Appeal chart is notified to all parties involved.
3. Two or more parties have the right to submit jointly for one appeal.

Appeal chart contents:

1. Appealed name, occupation, and residency and mailing address.
2. Appeal against name, occupation, residency and mailing address.
3. Name of court that issued the judgment.
4. Date of party's notification.
5. Reasons for appeal

All appeal reasons must be clearly stated, concise and lack of

argument and written in several number format.

– Documents needs (amended)

First instance court and appeal court review the rulings by first instance court of without the presence of the rival parties.

Upon the requirements fulfillment and meeting appeal's criteria the court of appeal shall set a date for hearing and notifying parties involved.

1. If the rivals do not show up to court, the court has the right to postpone the session or dismiss the case.

Jordanian constitution 1952

If the appealing party shows up in court while the other rival does not, the court may post pone the hearing and notifies the involved party.

2. Appealing party has no right to drop the appeal process.

4-5-6 has to deal with the presence and the absence of involved parties. - Item 1,2,7,9 of article 133 are applied in appeal cases .Appeal is not accepted after the Duration of the appeal only problems in the interest chart should be explained. Any materials not specified in the diagram of interest, the court should not hear it.

No further admission allowed in court, in any case, to the possibility that the court recognizes additional materials, the court should record such and the reason.

The avant-garde tribunal has the privilege of listening to further material or sending it to the court, starting to interest in investigating.

The appeal court has the appeal to find essential material, the compromise court or the first instance court did not find out; The request court can send such material to the court in question to investigate.

Included gatherings or both of them have no privilege to indicate protests for submitted proof or reports.

All submitted confirm and other record might be investigated by the court being isolated from those originated from the first court.

Article (231) and (232) were scratched off by Act no 46 of 1972.

In examination with the Egyptian interest law, we locate an awesome The comparability between the two laws, i.e. Article 219 of Egyptian law, allows anyone to initially propose the choice of a judge or a compromise court, as in the case of Article 905 of Jordanian law. The same can be said in Article 221, 222 Egyptian. Law 116 for the year 1964. Act 11 for 1940 and Law 121 for 1947. These laws cover almost everything that a judge has to establish on a reasonable choice and the fairness of being served. For the illustration of Article 230 (Egyptian): expresses that: the appeal was initiated with a request for submission to court center assistant and the request to include the court's choice, the date, the purposes behind the interest and the requests.

Independence of the judiciary forms an important assurance for judges to perform properly the duties commissioned to them, and an immune stronghold enabling them to avoid any probable indecent conduct, and hence, judges are required to behave according to ethical principles for the sake of this end. However, many countries have developed many clear codes and rules to organize the ethical conduct of judges, and in many cases judges put down by themselves such codes, and in other cases, governments contributed to their phrasing.

The Judiciary Inspection

Therefore, many countries around the world have established the judiciary inspection organ for the purpose of inspecting on the courts and deeds of judges and general prosecution, and here I'll clarify such deeds in each of the HKJ and Romania state.

In The Hashemite Kingdom of Jordan such codes included several ethics, so the judge must maintain his/her independence by himself/herself, and practice his judgment at his/her sound discretion, conscious and deep understanding for the facts established before him/her, and applying the legislation in force, international conventions applicable and the judiciary judgments far from any influences or temptations or coercions or threat or direct or indirect intervention from whatsoever entity and for whatever reason and in a manner corroborating confidence in his/her autonomy, and the judge should exercise his/her duties independent of his/her fellow judges when it comes to taking judiciary decisions, also, the judge should stop influencing his/her fellow judges in any form in their practicing of judgments and each judge should oppose any influence or intervention like this.

Judge should observe the standards of just trials and prompt justice, overtones of trials and the exceptions contained thereon, and judge should abide by the provisions of law during the case stages till the issuance of final sentence, and should, as well, exert reasonable effort in judging the cases brought before him/her within feasible periods without delay with the aim to realize prompt justice, and to avoid adjourning the sessions for unjustifiable reasons or to satisfy any litigant when the other litigant is absent.

Furthermore, the judge should respect, in his/her judgment, multiplicity, societal diversity and to equalize in speech and conduct between all persons whether they were parties to the conflict or others and not to discriminate between anyone of them based to religion, ideology, race, color, nationality or any other reason and to procure that his/her employees will comply with that.

Judge should keep up the court awe during the hearings and to be sober, patient, good-listener, respecting oneself and his/her capacity, supporting by his/her conduct and appearance and logic, the people's confidence in his integrity, and impartiality of the judiciary system, and to confirm by his/her conduct in private life to his/her honesty, uprightness and to remain above suspicions to win the ordinary person's confidence that would reflect positively on respecting the judiciary authority.

Yet, the judge should always endeavor to develop and enhance his/her scientific and practical capacities and, to be keen to advance his/her personal skills by attending specialist courses and work on what would maintain uplifting his/her qualification and competency, and he/she may not join parties, blocs, and political companies, or even participate in any of their activities, also, the judge should limit his/her relationships with lawyers or others who practice works at the court where he/she works or to visit litigants or their attorneys or receive them at his home to the extent that would protect him/her from impartiality doubt or non-neutrality, and to observe, when expressing his/her conducts or behaviors in any way including the social media, what may affect his/her sacred mission, and should avoid publishing or commenting on any of the judgments issued by him/her or by others on such means.

All of this aims at consolidating the independence and integrity and neutrality and competence of judges and the efficiency of their actions and mission based on achieving justice and entrenching the rule of law principle that would otherwise corroborate people's confidence in the judicial authority and increase respect to its role in establishing the prompt justice with integrity, impartiality and objectivity.

And, in order to enhance that, the Jordanian legislator made use, and under special laws and regulation, of establishing the judicial inspection department that follow up on the works and ethics of judges.

Formation of inspection department:

The judicial inspection organ consists of the senior inspector, who should be a judge occupying senior rank as a president, and a group of inspectors, where the ministry of Justice undertake to supplying the judicial inspection organ with the necessary number of employees and all requisites to empower it in carrying its tasks.

Inspector must be of higher rank than the judge to be inspected, and the organ of judicial inspection will assume the following tasks:

Inspection on judges' works of those not occupying senior grade provided that the inspection must be run twice each year at least relative to judges on probation and once at least for the rest of judges.

Evaluation of judges' works in terms of good implementation of law and completion of litigation measures, substantiation, reasons for adjournment, and the time taken in finalizing the case and the fulfillment of awards and rulings against their causes and motives and the soundness of results that were achieved and determining the ratio of cases the judge completed in a year.

Inspects on the work of statutory courts once a year at least, this including the attendance of hearings and reporting about that.

Inspect on the works of general prosecution.

Investigation into complaints referred to it by the president.

Inspection on judges' works is done at the judicial inspection offices of at the judge working place and annual inspection report on the judge's works are submitted after having evaluated his/her works, as well as, execution judges, seconded judges and delegated judges and those practicing non-judicial works, are evaluated by the judicial council or its representative for this end where the following actions must be observed when preparing the annual reports:

Verify ten cases at least of different types and the quantity of cases for which the judge issued final judgments to be chosen by the senior inspector based on the following standards:

- Actions of proceeding in the case.
- Completion of litigation actions.
- The time consumed in hearing the case.
- Performance in applying the law.
- Fulfillment of decisions and rulings against their reasons, motives and soundness of the result achieved.
- Determine the ratio of cases adjudicated each year by the judge.

- Rulings that were ratified by the appellate court and cassation court and the rulings that was revoked or appealed.

Efforts of general prosecutors in instituting and pursuing penal cases and efforts of the general administrative prosecution assistants in pursuing the administrative cases and following the methods of appeal in their legal times.

- Observe the general look of the judge.
- Abide by the code of conduct rules.
- Abide by the courses assigned to participate in.
- Non-existence of any penal or disciplinary penalty against the judge.

View of the court president or the superior in writing on that and for this purpose the president of appellate court will be the chief of first instance courts presidents affiliated with him.

Inspector will execute a confidential annual report about the judge works and assesses his/her competency after looking into his/her employment and confidential file as long as that deemed necessary and thus the inspector will write his report including the following:

Remarks that appeared during the inspection whether on judicial or administrative works.

His view about the judge competency and how he/she cares about his/her work.

Suggest training courses for the judge.

Suggest to transfer the judge or refer him/her to early retirement or retirement.

The judge whose capacity was assessed with average score may challenge this to the president of judicial council during (15) days from the date of being notified a copy of the report pertaining to him/her whereby the

president will refer the challenge with copy of the report to the committee of challenges.

However, the judiciary council will be formed at the beginning of every year a committee or more to challenge the annual reports, comprising of a president and two members of high rank judges from other than the council members and this committee decides on the challenge submitted to it during a period not exceeding two months from the date of referring the papers to it and will issue its decision with one accord or by the majority and it may approve the report or amend it and thus its decisions will be conclusive and reported to the senior inspector.

President of the judiciary council may refer the annual report to challenge committee for any judge to reconsider it and it may not devalue the rating but only after notifying the person in question and hearing his/her sayings and the committee may instruct to reconsider the report or refer the same to another inspector after taking the inspector opinion, who prepared the protested report, to illustrate the basics on which the report was built.

Complaint

Complaint must be submitted against any judge to the president of judiciary council who in turn will instruct the inspector to conduct investigation into this complaint where the inspector will set about investigation with the judge complained against by an inspector or more provided that each one of them is higher in seniority from the judge complained against, yet, the complainant must show up at the judiciary inspection department during (30) thirty days from the date of registering the complaint to follow up on his/her complaint otherwise the senior inspector will decide to archive the complaint and notify the council president thereof.

Judge may look into all investigation papers before being interrogated by the inspector and will have the right to call for a help from a lawyer and submit what he/she sees as necessary of evidences to uphold his sayings.

Complaint can be submitted against the judge due to adjournment of a case at issue, namely, postponing it without justification or contrary to law as preceded for issues relating to judge personal conduct or administrative action or any other matter and thereby the inspector undertakes to investigate into it and give his opinion in a report delivered to the judiciary council president via the senior inspector.

Inspector may use all investigation means to carrying our his tasks at the right time and place and issue writs to witnesses and hear them and look into the file of any case at issue or obtain copies thereof without transferring the file to his office and without impacting hearing of the case or proceeding with it.

Upon completion of investigation with the judge complained against, the inspector must hand in the papers to the senior inspector with any of the following proposals:

First- recommend to issue an assignment to the council in referring the judge to the disciplinary council

Second- recommend to issue an assignment to the president to inflicting the sanction of caveat on the judge complained against.

Third- recommend to issue an assignment to the council to keeping the papers in any of the following situations:

If the judge presented his/her resignation to the council or requested to be referred to retirement or early retirement.

If the registration of complaint was made over a period of three months without referring back to it by the complainant.

If it was confirmed to the inspector that the judge had not committed any violation that would call for chasing him/her disciplinarily.

And, after all actions are complete, if the inspector found that the complaint submitted against the judge was a plot or in bad faith, then papers will be referred to the senior inspector to be brought before the concerned general prosecutor for prosecution as appropriate against the complainant.

Amendments of the judiciary independence law # (26) for 2017

Recent amendments touched on the entire laws in the Kingdom to promote the independence of judiciary and many amendments were made on the judicial inspection issues where the senior inspector became no longer considered a member on the judiciary council under article (4) of the judiciary independence law yet, and under article (12) thereof, clause (third) – paragraph C- he will be appointed by the judiciary council provided that this will be associated with the supreme royal order issued by the King, and under article (40) of the same law clause A (the organ of judiciary inspection shall be affiliated with the council, and consists of the senior inspector and a group of inspectors whose the rank of any one of them is not less than the 2nd grade), and it's stipulated in clause B: (inspectors shall be appointed by an order from the council for (4)-year period, not renewable and during which period inspector shall not be transferred or delegated to another job.), also, it's cited in clause C: (senior inspector shall submit his reports to the president in addition to the reports of inspectors related to judiciary and courts and general prosecution affairs.), and it's quoted in clause D: (all tasks and powers of the judiciary inspection organ and it's work procedure shall be determined by an ad hoc regulation.)

Civil liability of the judiciary and attorney general:

In spite of many demands presented by the international and local organizations and human rights organizations and the organizations concerned with the judiciary works yet the Jordanian legislator had not taken, by no means, nor considered any recommendations imposing on judges or attorney general, any civil liability towards them or towards them or the government represented by the ministry of finance, and this a sound opinion from my point of view as the case, in order to reach its final stage by issuing the conclusive judgment, should pass through several stages including the first instance stage then the appellate stage then the cassation and therefore such stages are considered a control stage over applying the law and on the basis of which the decree will be accepted or appealed, so how the judge will be held accountable financially or the ministry of finance prosecuted with indemnification for a ruling already issued and completed

all its legal proceedings. As, the rulings are issued in light of the evidences brought before to the judge and on which basis he issues his/her judgment.

Formation of inspection department:

The judicial inspection organ consists of the senior inspector, who should be a judge occupying senior rank as a president, and a group of inspectors, where the ministry of Justice undertake to supplying the judicial inspection organ with the necessary number of employees and all requisites to empower it in carrying its tasks.

Inspector must be of higher rank than the judge to be inspected, and the organ of judicial inspection will assume the following tasks:

Inspection on judges' works of those not occupying senior grade provided that the inspection must be run twice each year at least relative to judges on probation and once at least for the rest of judges.

Evaluation of judges' works in terms of good implementation of law and completion of litigation measures, substantiation, reasons for adjournment, and the time taken in finalizing the case and the fulfillment of awards and rulings against their causes and motives and the soundness of results that were achieved and determining the ratio of cases the judge completed in a year.

Chapter Three

The Republic of Romania

Judicial branch:

The Supreme Court of Justice (which is comprised of 11 judges who gets appointed for three-year terms by the president in consultation with the Superior Council of Magistrates, which is comprised of the minister of justice, the prosecutor general, two civil society representatives appointed by the Senate, and 14 judges and prosecutors elected by their peers); a separate

body, the Constitutional Court, do validates the elections and they makes decisions regarding the constitutionality of laws based on merits, treaties, ordinances, and internal rules of the Parliament; it is comprised of nine members serving nine-year terms, with three members each appointed by the president, the Senate, and the Chamber of Deputies

Local courts (Romanian: Judicatories)

There are 40 county courts and the Bucharest Municipal Court (Romanian: Tribunal)

There are 15 Courts of Appeal (Romanian: Curți de apel)

The High Court of Cassation and Justice

The Court System in Romania

Sorted out by the Law no. 304/2004 with respect to the legal association, the legal framework in Romania is organized as a pyramid. On the highest point of the pyramid are the Highest Court of Cassation and Justice, next the Appeal Courts and Military Court of Appeal, Tribunals, specific tribunals, Military tribunals and on the base of the pyramid, the First occasion courts.

The 1992 law on redesign of the legal set up a four-level lawful framework, including the restoration of redrafting courts, which existed before Communist lead in 1952. The four levels comprise of courts of first occasion, middle of the road reappraising level courts, a Supreme Court, and a Constitutional Court. The Constitutional Court, six of whose nine individuals are picked by the parliament and three by the president, has legal duty regarding legal survey of established issues. The Constitutional Court judges are delegated for nine-year terms. The Supreme Court was revamped

under a different 1993 law; its individuals are delegated by the leader of Romania and exercise extreme expert over every other court in the nation. The judges of the Supreme Court are delegated for a term of 6 years and may serve continuous terms.

Under the law, the courts are free of the official branch. The constitution vests specialist for choice and advancement of judges in the Ministry of Justice. Judges are named for life by the president upon proposal from a board of judges and prosecutors chose by parliament.

Close by this normal court framework is a three-layered military court framework, which handles cases including military work force.

The Judicial System in Romania

The present day legal framework in Romania goes back to the mid-nineteenth century. The Romanian equity framework depends on French, Belgian, Italian and German models.

To satisfy its duty regarding the working of the courts and the supervision of state marshals, state public accountants, and the national bar association, the Ministry of Justice was partitioned into six directorates:

- civil courts
- military courts
- studies and enactment
- personnel
- administration
- Planning and bookkeeping.

The 1992 law on rearrangement of the legal set up a four-level lawful framework, including the restoration of re-appraising courts, which existed preceding Communist control in 1952. The four levels comprise of courts of:

- first case Courts
- intermediate re-appraising level courts
- Supreme Court

Constitutional Court. The court framework likewise incorporates military courts. Military courts were set up on a regional premise, subdivisions being dictated by the Council of Ministers.

Under the law, the courts are autonomous of the official branch. The constitution vests expert for choice and advancement of judges in the Ministry of Justice. Judges are designated for life by the president upon suggestion from a board of judges and prosecutors chose by parliament.

The Ministry of Justice practices powers identified with organization of the equity framework, execution of disciplines, and additionally regarding the action of the Public Ministry, in light of strict utilization of the laws and with regards to the law based standards of the lead of law, guaranteeing sufficient conditions for the whole equity framework.

The Romanian Constitution reestablished the Superior Council of the Magistracy, a body of the legal specialist with administration powers and disciplinary ward. Its individuals are chosen specifically from the general congregations of the justices by court levels, their rundown being sent through the changeless workplaces of the Chamber of Deputies and the Senate to the lawful commissions with a view to hearings in a joint session. Along these lines, the rundown of applicants is put to the vote in a joint session of the two councils of Parliament. Moreover, the legal of Romania is sorted out as a various leveled arrangement of courts, with a common law framework. Arrangements in regards to its structure and association are found in the Constitution and Law no. 304/2004 on legal association.

Each court is controlled by a court president, who is in charge of its

administration and advertising. Inside most courts there are specific segments or boards for common and criminal cases, and different ranges of the law.

Various particular courts (tribunal especializate) additionally exist, for example, the Argeş Commercial Court and the Braşov Family Court. The Constitutional Court of Romania goes about as an autonomous protected purview and is not some portion of the standard court framework.

The military court framework is sorted out into three tribunals, the Territorial Military Tribunal and the Military Court of Appeal

Constitutional Court of Romania

The Constitutional Court of Romania (Romanian: Curtea Constituțională a României) is the foundation which leads on whether the laws, orders or different bills authorized by Romanian experts are in similarity with the Constitution.

It comprises of nine individuals serving nine-year terms which can't be stretched out, with three individuals each selected by the President, the Senate and the Chamber of Deputies. Three individuals are restored at regular intervals, with the most recent restoration happening in 2016.

According to the Article 144 of the Constitution, the Constitutional Court exercises the following powers:

- to adjudicate on the constitutionality of laws, before promulgation, upon notification by the President of Romania, by the President of either Chamber of Parliament, by the Government, the Supreme Court of Justice, by a number of at least 50 Deputies or at least 25 Senators, as well as, ex officio, on initiatives to revise the Constitution
- to adjudicate on the constitutionality of the Standing Orders of

Parliament, upon notification by the President of either Chamber, by a parliamentary group or a number of at least 50 Deputies or at least 25 Senators

- to decide on exceptions brought to the Courts of law as to the unconstitutionality of laws and orders

- to guard the observance of the procedure for the election of the President of Romania and to confirm the ballot returns

- to ascertain the circumstances which justify the interim in the exercise of office of President of Romania, and to report its findings to Parliament and the Government

- to give advisory opinion on the proposal to suspend the President of Romania from office

- to guard the observance of the procedure for the organization and holding of a referendum, and to confirm its returns

- to check on compliance with the conditions for the exercise of the legislative initiative by citizens

- to decide on objections of unconstitutionality of a political party

Judiciary Inspection

Article 57 of the Romanian constitution stipulated (Romanian citizens and foreign residents and persons without nationality must practice their rights and liberties and constitutional principles with good will without violation of their rights and liberties.)

In order to promote the work of judges and their independence and to monitor their performance a judicial inspection organ was established under the law issued in 2004 and that due to increasing pressures in order to enhance the judges and attorney general level of performance in the aftermath of moving from the socialist old regime to revolution thereafter, in

addition to the pressures to which Romania was subjected by the EU after joining it and that to fight corruption and entrench the principles of justice.

Judiciary inspection organ operates as a corporate person inside the higher council of judiciary and works according to the rules of judiciary independence, so that the judiciary inspection organ works on resolving the issues pertaining to judges and general prosecutors and judiciary assistants and the violation of their obligation in their relation with the judicial authority.

Disciplinary liability of judges is a personal liability imposing penalties on the appearances and actions provided for in law # 303/2004 which addresses the status of judges and general prosecutors in the disciplinary issues, and the competent entity to judge the disciplinary actions against judges and general prosecutors is the supreme council of judiciary which is the only board that can select and decide the course of judges being the entity responsible for the deeds of judges and the only entity which pursues the deeds of judges.

And in order for the disciplinary liability to apply, terms provided by the judge or general prosecutor, which he/she must comply with in his/her practical or personal life, should be violated, like breaching social values through overlooking the service duties set by the regulatory rules and by-law rules and the presence of disciplinary deviation, and all these deeds, committed by the judge or the general prosecutor, must be associated to be a direct cause consequential upon him/her. Therefore, necessary investigations must be done to explain and apply these terms with accuracy since the disciplinary penalty of the judge results in severe moral, social and regulatory consequences.

And, though the inspection is existing within the provisions of Romanian law and since 2004 yet, it was not practiced properly and no regular inspection was made on the works of courts and judges and general prosecution, however, and due to increased complaints and due to requirements of the new stage today and in order to pursue such developments by the EU and to emphasize the works of inspection, so

inspection works were conducted by the inspection organ on judiciary works and general prosecution during the time in 2012 & 2013 where many cases and violations were caught and referred to investigation, and it seems that this period is the sole period in which the role of inspection was activated (because in the preceding years there was not a lot of concentration on this issue yet and consistent with the recommendation of cooperation and verification mechanism that targeted, especially in the years 2014 and 2015, fighting the immense corruption.)

In the period between August 2012 and March 2013, the judiciary inspection organ carried out (8) disciplinary actions for judges (two thereof due to complaints related to delays in issuing the judicial rulings.) and among these disciplinary actions the supreme council of judiciary decided on three action as follows: refused to take a disciplinary action and accepted two thereof and the penalties applied were sending warnings and lowering the monthly salary by 20% over (6) months. And, in 2012, (5) disciplinary cases were resolved where two thereof were rejected and the penalty applied in two cases were dismissal of judges from their position and in the third case a reduction of 15% was applied to monthly salary over (3) months.

In the period between 1-31 Marc, 2013 (5) disciplinary cases were resolved and the actions taken were reducing the monthly salary by 20% over (3) months and sending a warning and disciplinary transfer for (3) months.

As regards the disciplinary liability for the general prosecutors for the period noted above, the judiciary inspection concerned with the general prosecutors took two disciplinary actions but the judiciary supreme council rejected them. In addition, in 2012, the judiciary inspection concerned with the general prosecutors resolved another two cases and the two penalties were sending a warning for one and a dismissal for the other.

From the cases mentioned above it can be concluded that the number of cases in which decision was take were very few and the situation remained almost the same in the years 2014 & 2015, these cases call the

utmost attention of the European committee entrusted with the Romanian judiciary system and related to application of the new Romanian legislation and the judiciary system development plan 2015-2020, due to problems of integrity and fighting corruption at the highest level and others.

In 2016, the committees, following up the judiciary development works, found that Romania is exerting very serious efforts to advance the judiciary system and there are positive indicators in this direction.

In a comparison with previous years, the committee concluded that the number of judiciary corruption cases were reduced and the performance of governmental judiciary bodies had improved and fighting corruption went on and, there are indicators on practicing the judiciary with continuous profession and integrity with the ability to adapt to laws and legislation, and the will in defending the independence of judiciary, all leads to development of the Romanian judiciary system and enhancement of Romania image as a democratic system before the European countries.

3. Civil liability for judiciary and general prosecutors

According to article 96, item (1) of law # 303/2004 related to the judiciary and general prosecutors, the material liability resulting from errors in judiciary rulings will be the responsibility of government. Therefore, the affected due to such erroneous rules will have the right to claim for indemnities from the government through the ministry of finance, and it should be noted here that the affected cannot file a case against the judge or general prosecutor but may brought the case against the government which in turn will retrieve the material compensations from who committed such errors and this rarely happens.

Judicial error is considered the judiciary ruling of the case essence which doesn't fall in line with the judiciary fact for several reasons. Full responsibility doesn't fall on the judge shoulder, even not partly, in many cases of the judiciary error which depends on inadequate clues (misleading witnesses testimonies), and evidences subjected to damage by the passage of

time or simply there appear, after voicing the ruling, evidences or facts, that were not known before. And, in spite of all that the mind won't accept the principle of what called the "judiciary fault", due to the presence of several stages of the case embodied in the first instance then the appellate and the cassation and these stages are enough to check on the entire works of case and uphold what match the law and disprove what is discrepant with.

Minister of justice TODORIL TWADOR, said that a change will take place in laws so that judges will be prosecuted and they will bear liability for judicial faults compulsively. And he announced that the state, through the ministry of finance, will be obliged to move against the judges and prosecute them for these indemnities and he added "we proposed the repeal of item (6) of article (96), which approves indemnification, the person can institute a case against the state through the ministry of finance. And, the amendment is: after having covered the damage by the state, the state will prosecute the judge or the general prosecutor who committed a fault to be prosecuted for the value of such indemnity.

In addition, I don't agree with this principle in civil liability and uphold the principle which was introduced by the Jordanian legislator which I explained earlier.

In spite of all that, yet the talk is still going on till now about the activation of the judiciary inspection organ and the minister of justice Mr. TODORIL TWADOR is still issuing pronouncements on the judicial development and the advancements related to judiciary inspection and civil liability of the judge after the popular fury that overthrew the previous minister of justice and a committee was formed to develop the laws.

Where, Mr.TODORIL TWADOR announced that a bill to amend the justice laws will end in the coming days and debate is still on about two types of judiciary inspection: to have the inspection under supervision of the ministry or an independent institution and the minister said, that the bill of judiciary amendment will be completed most probably on Sunday the coming week, adding that the judiciary inspection will be amended to affiliate with the ministry of justice or an independent institution. And,

TODORIL TWADOR added that the higher council of judiciary is the "most likely" nominated up to now and will be responsible for the judiciary inspection works.

He said also, that to reinforce the independent judiciary inspection power there are three choices:

- 1- To remain annexed to the higher judiciary council
- 2- To be affiliated with the ministry of justice
- 3- To establish an independent organ by itself not affiliated with any entity

Whereby the judges signing on an objection statement warned that "we are longer able to return in the right time to the legal statements existing before the year 1989, through bringing judges under the political control and expanding powers unallowable by the minister of justice". And also " these changes suggested basically by the minister of justice violate such proposals, and will affect the employment and profession activity of judges and cause disruptions in the judiciary authority, which were condemned by the European commission over and again.

On 25/10/2017 the minister of justice presented a new proposal published in the Romanian journals:

Minister of justice TODORIL TWADOR said Wednesday at the parliament that the proposal of judiciary inspection is to become independent institution which is ... (as is the case now) or the ministry of justice (as was in his initial proposal), where the judiciary inspection will be organized as an autonomous institution.

The organization of the Judicial Inspection as a body established by the Ministry of Justice was a proposal supported by the Minister of Justice. The proposal was unsuccessful, with the Judicial Inspection remaining an institution with legal personality working with the Superior Council of Magistracy. The Proposal of Minister of Justice was not supported due to protests from associations of judges and prosecutors who expressed fear of subordination of the Judicial Inspection to the Romanian Government. At

the date of filing the thesis, the Law amending Law no.304 / 2004 was adopted but was not promulgated by the President of Romania.

Jury System

During the era of King Henry II, and with a complete absence of authorities in the legal system, the courts of the United Kingdom used the jury system for the first time. They used in the twelfth century many procedural forms to achieve justice called (Battle Trial) which was criticized because of the lack of legal coverage, and it used another form called (Trial by Ordeal) which means low achievement and not achieving the desired result from the legislator performance and the achievement of the citizens' cases. In spite of being a judge, I think that the decision issued by the jury minimizes the human burden upon the issuance of the judgment.

In 1215, Magna Charta Libertatum Charter was adopted during the era of King Ewan Blabald under which the power of the King was limited to eradicate the violations and ensure the rights for all citizens.

Under this system, the punishment of the convicted person is determined by a jury (elected by the citizens) to respect the separation of authorities and avoid political intervention in the judicial field. Such juries must be bias and their decisions are appealable.

In Romania, which does not apply the Anglo-Saxon System taken from the British Community, the jury system is ineffective now and its application has many caveats due to the lack of experience in spite of the fact that this System is effective in the United Kingdom. In addition, its application to other communities dissipates the fears of the political effect on the judicial reference and is considered more responsible where ordinary people are involved.

The enforcement of the jury system was passed in Romania and will

be applied in 2017. However, the enforcement of this system requires training of the juries, and to elect according to certain basics. This system has not been approved in Jordan till now and I don't think that it will be approved due to its negative consequences in terms of increasing the expenses through the juries' expenses and the preparation of court rooms. In addition, in my opinion as a researcher and judge, it will affect the completion in ending the cases and issuing judgment. For example, what would happen in the hearing if one jury or two are absent for personal circumstances? Would the hearing be adjourned or the jury be replaced, or what? All answers .

I also find that the well trained judge is more able to issue fair decision than the jury.

Finally,

In order to give a clear and comprehensive picture of the judiciary system in Romania I have used an article belongs to my honorable professor Ioan Les, as follow: Judiciary system is characterized nowadays by being subjected to extensive reforms, In turn LAW philologists and scholars such as my role model prof. Les comment extensively on such new or amended law. Here is an example of prof. Les.

“The small reform”, as the new regulation regarding certain measures to accelerate the resolution of trials is also called, i.e. Law no. 202/20101), brings important amendments to the Civil Procedure Code in force. Most legislative amendments are meant to be become applicable before the implementation of the new Civil Procedure Code (hereinafter NCPC, for the sake of conciseness), adopted by Law no. 134/20102).

Article 1110 paragraph 2 of the NCPC compels the Government to submit the bill to the Parliament for enactment, with a view to its

implementation, within 6 months after the date of its publication.

"The set-up of a commission of specialists for the implementation of the NCPC seems to announce new amendments to such code, right before its implementation. If this is the intention of governmental authorities, it does not seem to us to be the most appropriate approach. The normal approach would be to wait for a period when the legislation stabilizes itself and is faced to the daily implementation process and to draw afterwards the required conclusions with the view to a potential subsequent improvement. However, we hope that the Bill for the implementation of the NCPC enshrines, as we have noted, only transient rules required for its correlation with various other institutions of material or trial-related law"²⁵.(prof.Les)

Summary

Similarities and Dissimilarities between Romania and Jordan's judicial Systems

1- Similarities

Both countries judicial systems are characterized by dignity, integrity, equality and trust. Both are managed and operated by skilled intellectuals and competent judges who are dedicated in serving justice and the protection of citizens' rights.

-Judicial systems in both countries are organized in relatively similar ways; Laws are derived from countries constitutions, and developed by legislators. Court systems are designed in similar manner, whereas, courts start from lower level (conciliation courts or magistrates, first instance, appeal and cassation or higher court).and special courts.

Legislators in both Romania and Jordan are working relentlessly to modernize judicial systems in their countries, and keep pace with rapid

changes occur in and out of Romania and Jordan I can describe both systems as systems of change, development and reforms. I as well as observers in both countries have noticed extensive judicial reforms take place in both countries, for example, the latest reform took place in Jordan, was in penal code, where there was an article that discriminates against women, namely article 308. This infamous article was allowing a rapist to be free without punishment for his rape crime in one condition, if he marries his victim. I was one of thousands activists who were demanding the cancellation of article 308

-Both countries were under certain factors' influence to have rapid and extensive reforms to their judicial systems. As I see it for Romania to adjust its laws, especially human rights and trade laws to be in harmony with the European Union laws after Romania became EU member. In regard to Jordan, also I can tell the reforms in judicial were because of the so called Arab Rising or the Arab Spring that has started in 2010 until now.

Dissimilarities

-I would like to express my opinion in this regard that, it is difficult to compare two incompatible states such as Romania and Jordan, because of the huge differences between the two countries. However and truly, the love of these two countries prompted me to conduct this study about them.

-Human Rights/ Family law

Family laws in Romania that govern family affairs whether marriages, divorce, children custody or family disputes, belong to the state and its judicial include courts, however, in Jordan the case is completely different, all of these belong to religious court and the state has nothing to do with it

except violence or crime should occur in family The official religion in Jordan is Islam, thus, there are Islamic courts that are in charge with.

Women and children have no rights in Jordan, the Jordanian society is patriarchal, this means the boss is the man who is empowered by religious courts. In marriage a woman has no say, even in most cases she cannot chose a man to be her husband, and rather her father or brothers arrange everything including legal matters. Even the state does not interfere in marriages, divorce matters inheritance and familial affairs, unlike Romania, where family law and relevant issues belong to the state through its public courts.

-Freedom of speech: There are guarantees for freedom of speech and expression in both countries constitution In Romania it is practiced as routine matters except in a minute matters. In my opinion the case is different in Jordan. In most cases Jordanians listen to news from neighboring states' satellites because there are many no, no and red light matters that nobody can say or express their opinion even the media. For example: matters relevant to dignitaries or friendly country or religions.

- Looking at matters to extract judiciary differences between Romania and Jordan I see things hard to be controlled especially in the Jordanian sides , for example there are decent laws in Jordan to deal with every aspect and matter, whether civil or criminal and special issues, however ,Jordan becomes under the influence of forces which it does not have control and cause the laws to be ineffective or useless. For example, in human rights issues such as juvenile crimes, child labor and other society's ills there are effective laws to deal with such issues the same as Romania; however sudden problems hit Jordan because of external events or fight and turn things upside down. Since 1948 Jordan has been hosting refugees

continuously: From Palestine (1948, 1967) from Lebanon,(1975), from Iraq (1990.2003), finally, Jordan hosted about 3 million Syrian refugees(2011-present). Judiciary system in Jordan has been subjected to carry very heavy burdens as a result especially courts and public security agencies. Jordanian laws have been enacted to serve citizens living normal life in a democratic country as the case with Romania. However, when a Jordanian judge faces thousands of cases involved: begging, theft, child labor, prostitution, minors' marriages, human trafficking and organized crime caused by refugees, This Judge feels unable to have new laws to enforce court orders or to build more shelters and prisons. Thus, the situation will remain like this until Syrian war ends and refugees go back Syria. In my opinion this is the major difference between Romania and Jordan. Romania does not have external factors to disable its judicial system; as a result it will keep going in modernizing its judicial system while Jordan will endeavor to keep its judicial system from falling down. Finally, I do believe that it is possible to compare and contrast normal things with other normal things, but not with two countries one lives in normal conditions such as Romania, and the other is fighting for its survival, like Jordan.

Finally, I would like to answer the study's questions as follow:

1- What are the factors affecting the judicial systems in both countries in terms of political, economic, social and cultural, aspects?

In regard to Jordan there are several factors affecting the it's judicial system such as: Jordan is a tiny country with scarce natural resources and short history. It is influenced by being a tribal society, under the effect of Islamic beliefs, and being open to the West as a modern country. Consequently, its judicial system is mixed: Tribal, Islamic and French.

Romania is influenced by several factors such as, being a part of

Ottoman's empire, the church, part of former USSR and a member in NATO and EU. Romanian judiciary can be described in two words: continuous reforms.

2- What makes the judicial systems to be effective and successful in order to fulfill the requirements of nowadays demands?

Have two systems be subjected to reforms and in an effective way to maintain integrity, trust equality and transparency/

1- What are the roles of law scholars, academicians, and legislators in enhancing judicial systems in both countries?

Without them there will be no effective and modern judicial systems in both countries.

Recommendations

Through my reading the Jordanian and Romanian law I would recommend the following:

1. The researcher believes that the formation of the Judicial Council in Jordan is more effective than Romania because it is directly linked to the judges through the President of the Judicial Council, which is at the same time the President of the Supreme Court.
2. The composition of the Judiciary Council in Jordan gives greater effectiveness to dealing directly with judges because its composition is characterized by the involvement of judges only, without any presence of any outside the judiciary, such as the Supreme Council of the Judiciary in Egypt. French system.
3. The Jordanian judicial system is distinguished by the participation of two of the oldest judges of the Supreme Court in the composition of

the Judicial Council. As a researcher, I recommend that this be done in the Romanian system because they have considerable experience in judicial work.

4. The presence of members of the Judicial Council in Romania from outside the judicial system will not be of great benefit, especially as this will give room for members of Parliament to intervene in judicial work through the members who appointed them through them. I believe that this will lose the Judicial Council completely independence from other political interventions.
5. The introduction of the jury system at this stage will not reflect any progress in the Roman judicial development. It is a new system that needs great efforts, greater financial costs, equipment and settings for the jurors to rise to the required level. I believe that judicial efficiency in Romania As did the Jordanian judiciary.
6. To facilitate the procedures it's better to submit the complaint directly to the Jordanian judiciary inspection organ instead of the president of judiciary council, as that would mean more speed in following up the complaint and realizing the sought after purpose from the regulatory body over the works of judges, general prosecution and courts and thus considered of the passive issues from the standpoint of researcher.
7. Consider the inspection organ in Romania state as an organ affiliated with the judiciary council yet it enjoys immunity and total independence, as contained in the Jordanian judiciary inspection in terms of giving immunity to inspectors by not moving or delegating them to any other job all through their nomination for to (4) years.

8. It's unacceptable to have the judiciary inspection organ affiliated with any executive authority as that would mean domination over the judiciary supreme council power which is considered an independent authority with its own being.
9. Romanian minister of justice seeks and thru his continuous pronouncements or thru his debates at the parliament to consider the judiciary inspection organ affiliated with the ministry of justice though he announced it sometimes as an independent institution. Yet, it's better to adopt what the Jordanian legislator took up.
10. To cancel the civil liability for judges or general prosecutors and take up what the Jordanian legislator had adopted in terms of its illogicality for being contrary to the justice logic which impose on cases to pass through all litigation stages and therefore it's subject firstly to issuing the sole judge ruling then (3) judges from the appellate panel and not less than (5) judges from the cassation court and this is adequate to correct any fault committed by any judge (even in bad faith) and correctable through abolishing or disproving the ruling.

11. To revoke the sanction imposed on the judge or general prosecutor (in the Romanian law) consisting in discounting 20% or 15% of his/her salary as being non-detering sanction, and doesn't achieve the objective from the general deterring as the ill-willed person will not fear such sanction but wishes for it sometimes based on that what he had received from tampering with the result of case is greater than this sanction and, it's better to wave with the sanction of dismissal or referral to retirement or early retirement as this would scare more as being of bigger loss for his judiciary post and will injure his reputation, and if there was a judiciary fault then the sanction of discount from the salary

will entail disruption in the financial level of the judge which would compel him/her to resort to entreat the others or even will be forced to sell his/her house to pay up for his/her financial obligations and that would lead to passive result of sanction.

Conclusion

This study is concerned with the study of the judicial system. The differences between the judicial systems in the Hashemite Kingdom of Jordan and the State of Romania in particular have been shown in the study. Some of the judicial systems in Europe and some Arab countries have also demonstrated the ways to develop these systems in order to achieve high standards of independence from Political systems.

I have faced many challenges and difficulties during this study but one the biggest challenging aspect was the constant changes to laws in Jordan and Romania in the past three years. Especially the changes project that was undertaken in 2017 which is still under discussion to be approved. This includes many changes to laws that were studied then it was ratified.

The study showed the components of the judicial system and its sections and focused extra on the judicial inspection and disciplinary assurances of the judges. It is not a luxury or an optimism, but it stems from the great importance that has been addressed to the judiciary and the judges in the modern countries that always seek to progress and move forward in all fields including Providing security and safety to an important sector of the community of judges

Undoubtedly, modern countries progress is not based on their innovations and advancement in the field of technology or economy, though

they have great importance which we don't belittle, yet combining them with the progress and prosperity of judges will fortify the country and render it at the top list of advanced countries that had made the rule of law for all people the light and torch of life, and that thru paying attention to their judiciary organ as being the immune fortress and the safe haven for all in realizing the justice and rule of law far from nepotism or discrimination.

Prosperity and fortification of the judiciary from all influences will provide the safe environment that would attract investment and industries and build the state economy, where the capital search for secure environment for its investments, and this will be achieved by fortifying the judges and their independence, where that the independent judges have no authority above them but the authority of law which is drawn from the constitution not liable to restraint nor disruption but only by the constitution per se.

Last but not least, the judiciary inspection organ is a supportive organ for protection of judges or general prosecutors and courts works against ill-willed people and thereby an assurance for them to carry out their works according to the laws established and not only a controlling tool inserting awe into the souls except those whose oneself betrays him and follows his whims and accepts to tamper with the people's rights, and so this organ, in order to carry out its proper actions, must attain independence and ensure protection from political interventions or influential people.

Thank You

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