

Decision of the High Judicial Council No. 4 of 2006 Concerning the Bylaw of the Judicial Inspection

Having reviewed the Law of the Judicial Authority No. 1 of 2002,
Following the approval of the High Judicial Council, and
Pursuant to the powers bestowed upon the Council in Articles 41 and 80 of the Law of the Judicial Authority No. 1 of 2002,

I hereby promulgate the following:

Chapter I. Definitions

Article 1

In applying the provisions of this bylaw, the following terms and expressions shall have the meanings specified below, unless the context determines otherwise:

Law:	The Law of the Judicial Authority.
Bylaw:	The Bylaw of the Judicial Inspection.
Department:	The Department of the Judicial Inspection.
President:	The President of the High Judicial Council.
Council:	The High Judicial Council.
Director of the Department:	The Director of the Department of Judicial Inspection.
Appraisal of performance:	The examination of the performance of a judge and all other activities which he assumes, with the intention to know his judicial and legal competence, his performance both quantitatively and qualitatively, his disciplined conduct, and his regularity at work.
Degree of competence:	The final estimation of the competence of a judge resulting from the inspection of his activities and appraisal of his performance.

Chapter II. The Formation of the Department of Judicial Inspection and its Powers

Article 2

Pursuant to the provisions of the law and this bylaw, a department for the inspection of the activities of judges shall be established, attached to the High Judicial Council, and shall be subject to its management and supervision.

Article 3

1. The Department shall consist of a Director and a sufficient number of judges at the Courts of Appeal, pursuant to the provisions of the law.
2. The necessary number of employees shall be given to the Department as needed.
3. The Director of the Department shall be the immediate administrative officer in charge of the inspectors and officials at the Department.

Article 4

The work of the Department shall be managed by its Director, who shall distribute the responsibilities among the inspectors. The most senior inspector shall represent the Director upon his absence.

Article 5

The Department of Judicial Inspection shall be responsible for the following:

1. The regular inspection of the activities of judges at courts and execution judges, with the exception of the judges at the High Court.
2. Appraising the activities of judges in terms of the smooth enforcement of the law, the fulfillment of the procedures of litigation and proof, the reasons behind adjournment, the period of time taken for the adjudication of actions, the fulfillment of the decisions and judgements of their causes and justifications, the soundness of the results reached, and the determination of the percentage of the annual adjudication for judges.
3. Inspection of the Department of Execution, departments of the Public Notary, and officials at courts.

Article 6

Inspection of the activities of judges shall be conducted in the following manner:

1. In the case of ordinary judicial activities, the inspection shall address:
 - a) The examination of the number of cases and those adjudicated or in the process of adjudication, in which a judge under inspection took part over various periods, along with a general review of the performance of a judge in terms of his professional, linguistic, and managerial capacity, his abidance by the procedures, and the time which he takes in the performance of the tasks delegated to him.
 - b) The results of training courses.
 - c) The reasons behind the repealing, cassation, or amendment of a judge's decision.
 - d) His mental preparedness and legal culture.
 - e) His personal conduct, general appearance, and method of dealing with others.
 - f) His ability to manage the judicial activity and guide his subordinate officials.
2. In the case of seconded and delegated judges, the reports sent about them from their work places shall be examined, provided that such reports are subject to the facts in their local files and the results of the inspection conducted for their counterparts who work inside of Palestine, along with the examination of any judicial activity which they performed within three (3) months prior to their secondment or delegation.
3. With regard to judges sent to study, the reports dispatched about them by the cultural attachés or their representatives shall be examined, along with submissions by their supervisors concerning the level of progress in their study, their regular attendance, their general conduct, and other matters included in the methods of the estimation of competence. All judicial activity which they performed within three (3) months prior to their being sent shall also be examined.
4. With regard to judges who assume non-judicial activities, the reports forwarded by their competent supervisors shall be examined. In addition, all judicial activity which they performed within three (3) months prior to their assignment to the non-judicial activity shall be examined.
5. A judge who is on an unpaid leave shall not be subjected to inspection for the period of time during which he is on such leave.

Chapter III. The Procedures of the Commencement of the Judicial Inspection

Article 7

With the exception of the judges of the High Court, the inspection of judges shall be conducted at least once every two (2) years, provided that each inspection report is deposited at the Council no later than one (1) month from the date of its expiration. Judges must also be informed of all that is deposited in their service files or other papers.

Article 8

Each inspection shall take place at the Department or by going to the work place of the judge to be inspected.

Article 9

In the case of inspection of the activities of the judges at the Courts of Appeal, the inspector must perform the inspection in the order of seniority.

Article 10

The Director of the Department shall allot the appointments of regular inspection and notify the judge or court of the activities which are to be inspected within a sufficient period of time prior to the inspection. The Department shall have the right to carry out unannounced inspections of the courts to learn about the regular progress of work and the extent of their heed, as well as that of judges regarding the performance of their duties. The Director of the Department shall also have the right to delegate this to selected inspectors, provided that they submit an immediate report on the result.

Article 11

A judge who is subjected to inspection shall have the right to submit a memorandum on his performance and the conditions of his work over the inspection period. He shall send the memorandum to the Director of the Department through the President of the Court at which he works. The President of the Court may comment on what is stated in such memorandum.

Article 12

The Department may review all files which it deems relevant. It may also request clarifications from any judge about any file that it examines and which is related to him.

Article 13

1. A complaint against a judge shall be filed by the concerned person to the President, who shall refer it to the Director of the Department.
2. Procedures in a complaint against a judge may not be commenced unless the name of the person filing it, his signature, and his full address appear thereon.
3. The Department may commence any procedure in response to a complaint submitted against a judge as is described above if the complaint includes particular facts that are worthy of examination or investigation.

Article 14

1. If the complaint pertains to the adjournment of a case under examination, the inspector may view the file from this aspect and write a report thereon.
2. If the complaint pertains to other matters, such as the personal or administrative conduct of a judge, the inspector shall assume investigation and express his opinion and shall send a report thereon to the President.

Article 15

An inspector shall perform the following:

1. Issue summonses for witnesses pursuant to the provisions of the law, hear their testimony, and determine the expenses of their travel.
2. Use all methods of investigation to perform his duties at the proper time and place.
3. View the file of a case, as well as all relevant documents, registers, and files, and hear the statements of all those who assist in the investigation to reach the truth.
4. In all cases, an inspector shall be prohibited from transferring the file of the case to his office and keeping it before adjudicating its subject.

Article 16

If it appears to an inspector that the complaint was filed against a judge in malevolence or with ill intention, he shall transfer the papers to the Attorney-General for judicial prosecution in the due form.

Article 17

1. Each judge shall be allocated a confidential file to be kept at the Department, in which shall be deposited the inspection reports, remarks, complaints filed against him, admonitions directed to him or disciplinary penalties imposed upon him, decisions including a surpass in promotion and all papers which assist in the formation of a true opinion about him.
2. The inspection activities shall be confidential. The disclosure of any information about such activities shall be deemed a breach of the duties of the function.

Chapter IV. The Appraisal of Performance

Article 18

An inspector shall put forth a report of two sections. The first section thereof shall include the judicial and administrative observations which appeared to him as a result of the inspection. The second section shall include his opinion on a judge's competence and the extent of his care of work. The inspector must include in his report a statement of the observations which he comes upon about the activities performed by the judge, which are worthy of commendation in order to reach a full picture about his competence.

Article 19

The Department shall state the results of its examination in relation to fifty (50) grades in the places designated thereto in the forms attached to this bylaw, in which it shall make clear the following:

1. The name and degree of the judge inspected and his specialisation or the activities to which he was assigned within the period of inspection.
2. The numbers of cases and other matters which the judge adjudicated and which were examined, as well as the types of such cases.
3. The technical remarks about the objective performance of the judge, including:
 - a) The manner by which the judge handles cases, the extent of the effort and search he makes, the extent of his knowledge of the provisions of the jurisprudence and the Judiciary, his approach in the formulation of the reasons of judgements, and other issues.
 - b) The opinion of the Department on the performance of the judge in light of the technical remarks mentioned above along with a statement of the positive and negative aspects, the commendation or admonition of which it deems necessary.

Article 20

The Department shall evaluate the personal status of a judge in relation to fifteen (15) grades to be distributed to the data required on the form designated thereto, as follows:

General appearance	Three (3) grades
The extent of adherence to the code of conduct	Five (5) grades
The extent of heed and compliance with deadlines	Five (5) grades
The capability of supervision	Two (2) grades

Article 21

The Department shall assess the results of the internal and external training courses which a judge has obtained on the form designated thereto. The results of such courses shall be estimated in relation to twenty-five (25) grades pursuant to the following:

The grade which the judge obtained	Fifteen (15) grades
The extent of his adherence to attending the training courses	Five (5) grades
Personal conduct throughout the course	Five (5) grades

Article 22

The Department shall examine the administrative contraventions of any judge from the facts of the official files. It shall record its observations on a form designated thereto. The Department shall grant the grade to which the judge is entitled in relation to ten (10) grades.

Article 23

The inspection reports shall be submitted to the Committee for the Examination of Reports, which shall consist of the Director of the Department and the two (2) most senior inspectors. Upon the absence of one of them or the presence of an impediment that obstructs him from attending, his substitute shall replace him.

Article 24

The Committee shall examine the inspection report in order to assess the degree of the competence of judges. In this regard, it shall have the right to seek clarification of what it deems necessary from the inspector or judge, to carry out the necessary procedure to complement the items of appraisal, or to follow up with the inspection again.

Article 25

The report shall be deposited in the confidential file of a judge. A confidential letter shall be served upon him within fifteen (15) days through a copy thereof, including the degree of his competence. He shall have the right of grievance within fifteen (15) days from the date on which he is served with the letter.

Chapter V. Grievances

Article 26

The grievance shall take place using a petition to be submitted to the Director of the Department, provided that the grievance is submitted to the Council within five (5) days from the date of its submission. The Council shall appoint a committee from among its members under the presidency of the President for examination of the grievance. The Council shall adjudicate the grievance after viewing the papers and hearing the statements of the grievant,

and it shall issue its decision by a sufficient time prior to the conduct of the judicial motion. The concerned person shall be notified thereof by means of a letter, the receipt of which shall be registered. Such decision shall be subject to challenge before the competent judicial authority pursuant to the provisions of the law.

Article 27

If the period of grievance expires without a challenge being submitted or if the Council completed the adjudication of the grievance, the Director of the Department shall notify the Council of those judges with degrees of competence in the grade of 'Average' or 'Below Average', in order to take the necessary procedures in their regard.

Article 28

The President, the Director of the Department, and the Presidents of Courts within the areas of their jurisdiction shall have the right to forward observations on judges, whether with regard to their administrative conduct, their heed to their work, and their reputation and personal conduct, provided that such observations are sent to the Department of Inspection. A judge shall have the right to file a grievance against them within fifteen (15) days from the date on which he was notified thereof. The High Judicial Council shall adjudicate it. The observations shall be deposited in the confidential file in the event of non-grievance or upon their approval, along with his notification thereof.

Article 29

A confidential register, in which a page shall be allocated for each judge, shall be established at the Department. In each judge's page shall be recorded a summary of his status derived from all that is included in the confidential file.

Article 30

No person other than the President may view the confidential register and file, except that the Director of the Department must allow a judge based upon his request to view the parts relevant to him.

Article 31

The degree of competence of a judge shall be assessed in relation to one-hundred (100%) percent in one of the following grades:

1. 'Excellent': for those who obtain an average of ninety (90%) percent or better.
2. 'Very Good': for those who obtain between eighty-nine (89%) percent and eighty (80%) percent.
3. 'Good': for those who obtain between seventy-nine (79%) percent and seventy (70%) percent.
4. 'Average': for those who obtain between sixty-nine (69%) percent and sixty (60%) percent.
5. 'Below Average': for those who obtain between fifty-nine (59%) percent and fifty (50%) percent.

Article 32

Those who obtain a grade of 'Average' or above shall be granted the regular increment on its due date.

Article 33

With reference to the provisions of Article 35 below, a judge shall be eligible to be nominated for promotion if he obtains a grade of 'Good' or above, unless he was convicted

before the Disciplinary Council within the last two (2) years. Absent such a conviction, a judge obtaining a grade of 'Average' may be promoted if vacant positions are available.

Article 34

1. The competition between those nominated for promotion and are equal in seniority shall be in accordance with their degree of competence. Preference shall be given to those whose degree is higher.
2. If two judges or more are equal in seniority and competence, the one who holds the higher academic qualification shall be given precedence pursuant to the following criteria:
 - a) Doctorate: Three (3) grades
 - b) Masters: Two (2) grades
 - c) High Diploma: One (1) grade
3. The precedence to the nomination for promotion shall be in accordance with the allocated degrees which every judge has obtained.
4. If two judges or more from among those competing for promotion are equal in seniority, competence, and academic qualification, the precedence to promotion shall be for those who have legal experience in fields equal to the judicial activity prior to the assumption of the Judiciary.

Article 35

Judges included under the provisions of this bylaw shall not be awarded tenure nor be promoted unless an annual assessment is submitted about them in a grade of 'Good' or above.

Chapter V. Concluding Provisions

Article 36

All officials at courts must provide the facilitations necessary for the inspectors in order to perform their functions on pain of disciplinary liability.

Article 37

This bylaw shall enter into force as of 10 May, 2006 and shall be published in the Official Gazette.

Issued in the city of Ramallah on 10 May, 2006 AD, corresponding to 12 Rabi' al Akhar 1426 AH.

**Judge Isa Abu Sharar
President of the High Court
President of the High Judicial Council**