
Ombudsman for Complaints against Judges Law, 2002

1. Definitions

For the purposes of this law –

“Judge” – is defined as any of the following:

- (1) A judge as defined in the Basic Law: The Judiciary, including a retired judge who fulfills a judicial function in accordance with Paragraphs 57 or 66 of the Courts Law [consolidated version] – 1984 (In this law – The Courts Law);
- (2) Registrar as defined in Paragraph 84 of the Courts Law;
- (3) A judge and registrar as defined in the Labor Courts Law – 1969 (In this Law – the Labor Courts Law), including a retired judge who fulfills a judicial function in accordance with Paragraph 31 (g) of the Labor Courts Law;
- (4) A military judge as defined in the Military Justice Law – 1955 (In this Law – the Military Justice Law);
- (5) A Rabbinical court judge (Dayan) as defined in the Dayanim Law – 1955 (In this Law – the Dayanim Law);
- (6) A Qadi (Muslim religious judge) as defined in the Qadis Law – 1961 (in this Law – the Qadis Law);

(7) A Qadi Madhab (a Druze religious judge) as defined in the Druze Religious Courts Law – 1962 (in this Law – The Druze Religious Courts Law);

(8) A religious court judge for the Christian faith as defined in section 54 of the Palestine Order of Council – 1922-1947;

“Minister” –

(1) With reference to a judge as defined in Paragraphs (1) – (3), (6) and (7) – the Minister of Justice;

(2) With reference to a judge as defined in Paragraph (4) – the Minister of Defence;

(3) With reference to a judge as defined in Paragraphs (5) and (8) – the Minister of Religious Affairs;

“Judges Disciplinary Tribunal” -

(1) With reference to a judge as defined in Paragraphs (1) – (3) – the Judges Disciplinary Tribunal as defined in Paragraph 17 of the Courts Law;

(2) With reference to a judge as defined in Paragraph (4) – the Judges Disciplinary Tribunal as defined in a Paragraph 192d of the Military Justice Law;

(3) With reference to a judge as defined in Paragraph (5) – the Judges Disciplinary Tribunal as defined in Paragraph 20 of the Dayanim Law;

(4) With reference to a judge as defined in Paragraph (6) – the Judges Disciplinary Tribunal as defined in Paragraph 17 of the Qadis Law;

(5) With reference to a judge as defined in Paragraph (7) – the Judges Disciplinary Tribunal as defined in Paragraph 22 of the Druze Religious Courts Law;

“Judges Appointments Committee” –

(1) With reference to a judge as defined in Paragraphs (1) and (2) – the Judges Appointments Committee as defined in Paragraph 4(b) of the Basic Law: The Judiciary;

(2) With reference to a judge as defined in Paragraph (3) – The Judges Appointments Committee as defined in Paragraph 4(a) of the Labor Court Law;

(3) With reference to a judge as defined in Paragraph (4) – the Military Judges Appointments Committee as defined in Paragraph 187 of the Military Justice Law;

(4) With reference to a judge as defined in Paragraph (5) – the Appointments Committee as defined in accordance with Paragraph 6 of the Dayanim Law;

- (5) With reference to a judge as defined in Paragraph (6) – the Appointments Committee as defined in Paragraph 4 of the Qadis Law;
- (6) With reference to a judge as defined in Paragraph (7) – the Appointments Committee as defined in Paragraph 11 of the Druze Religious Courts Law;

“The Director” -

- (1) With reference to a judge as defined in Paragraphs (1) – (3) – the Director of Courts;
- (2) With reference to a judge as defined in Paragraph (4) – the Director of the Military Court of Appeals as defined in the Military Justice Law or whoever he has appointed;
- (3) With reference to a judge as defined in Paragraph (5) – the Director of the Rabbinical Courts;
- (4) With reference to a judge as defined in Paragraph (6) – the Director of the Sharia Courts;
- (5) With reference to a judge as defined in Paragraph (7) – the director of the Druze Religious Courts;

“The President” –

- (1) With reference to a judge as defined in Paragraphs (1) and (2) – the President of the Supreme Court;
- (2) With reference to a judge as defined in Paragraph (3) – the President of the National Labour Court;
- (3) With reference to a judge as defined in Paragraph (4) – the President of the Military Court of Appeals;
- (4) With reference to a judge as defined in Paragraph (5) – the President of the Great Rabbinical Court;
- (5) With reference to a judge as defined in Paragraph (6) – the President of the Sharia Court of Appeals;
- (6) With reference to a judge as defined in Paragraph (7) – The head of the Druze Religious Court of Appeal as defined in the Druze Religious Courts Law;

“The Ombudsman”, “Ombudsman for Complaints against Judges” – Ombudsman for Complaints against Judges who has been appointed in accordance with Paragraph 3;

“The Ombudsman Appointments Committee” – the Judges Appointments Committee as defined in Paragraph 4(b) of the Basic Law: The Judiciary.

2. The Ombudsman's Office for Complaints against Judges

The Ombudsman will head a unit to be known as the “Ombudsman's Office for Complaints against Judges” that is set up to inquire, in accordance with the provisions of this Law, into complaints lodged by the public against judges' conduct in the fulfillment of their duties, including the manner in which trials are conducted by them.

3. Ombudsman Competency and Appointment

- (a) An individual who is competent to serve as a judge of the Supreme Court is competent to serve as the Ombudsman.
- (b) The Ombudsman will be appointed by the Ombudsman Appointments Committee, upon the recommendation of the Minister of Justice and the President of the Supreme Court; the Committee is entitled to accept or reject the recommendation, and should more than one candidate be proposed – can appoint any one of the candidates or reject the recommendation.
- (c) The public eminence of the individual and his familiarity with the legal system will be taken into account regarding the recommendation of the candidate to serve as Ombudsman and regarding his appointment.

4. Acting Ombudsman

Should the Ombudsman be temporarily prevented from fulfilling his duties, the Minister of Justice, with the consent of the President of the Supreme Court, will appoint an acting Ombudsman to fill the position for a period no longer than six months or until the Ombudsman resumes his post, whichever comes first.

5. Date of Ombudsman's Appointment

- (a) In so far as possible, the Ombudsman will be appointed no earlier than 90 days and no later than 30 days prior to the end of the term of the incumbent Ombudsman; should the position of Ombudsman be vacated prior to the end of the full term, the appointment will be made within 45 days of the day upon which the position became available.

- (b) An announcement of the Ombudsman's appointment will be published in the official gazette.

6. Length of Term

The Ombudsman will serve only one five-year term.

7. End of Term

- (a) The Ombudsman's term expires –
- (1) At the end of the term;
 - (2) In the event of the Ombudsman's demise or resignation;
 - (3) Upon his removal from office;
 - (4) At the end of the six consecutive months during which the Ombudsman's duties have been filled by the acting Ombudsman appointed in accordance with Paragraph (4).
- (b) Notification of the termination of the Ombudsman's term will be published in the official gazette.

8. Removal of Ombudsman from Office

- (a) The Ombudsman Appointments Committee is entitled, on its own initiative or at the initiative of the Minister of Justice or President of the Supreme Court, to remove the Ombudsman from his office by a decision adopted by a majority of at least six committee members in any of the following circumstances:
- (1) He has been convicted of a criminal offence, other than offences specified in Paragraph 7(a)(2) of the Knesset Law – 1994 (In this Law – the Knesset Law);
 - (2) He has been conducting himself in a manner inappropriate to his standing;
 - (3) He is not carrying out his duties properly;

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- (b) The Ombudsman Appointments Committee will not remove a Ombudsman from his post until the Ombudsman has been given the opportunity to plead his case before said Committee.

9. Suspension of the Ombudsman

- (a) No indictment will be filed against the Ombudsman, except for offences specified in Paragraph 7(a)(2) of the Knesset Law, without the approval of the Attorney General. Once an indictment has been filed, the Ombudsman will be suspended from his duties.
- (b) (1) The Ombudsman Appointments Committee is entitled, by a majority, to suspend the Ombudsman if the Ombudsman is the subject of an investigation that can lead to criminal proceedings as defined in Paragraph 7(a)(2) of the Knesset Law, for the duration of the said investigation; and if the investigation relates to an offence whose nature, severity or circumstances prevents the Ombudsman from fulfilling his duties, the Committee is entitled to suspend the Ombudsman for the said period of time.
- (2) The Ombudsman Appointments Committee will not suspend the Ombudsman in accordance with this sub-paragraph until the Ombudsman has been given an opportunity to plead his case before said Committee.
- (c) During the period of suspension, and in accordance with this Law, the Ombudsman's position will be filled by an acting Ombudsman, and the provisions of paragraph 4 will apply.

10. Restriction regarding the appointment to serve as judge

A Person who has served as Ombudsman will not be appointed judge.

11. Exclusivity of the Office and Permitted Activities

(a) The Ombudsman and the Ombudsman Office's employees will not be permitted –

(1) To serve in any other position or to be involved, directly or indirectly, in any other occupation.

(2) To be Members of the Knesset, the government, any Local Authority, any political party electorate body, or candidates for membership in any of the aforementioned;

(3) To serve as members of the board of any company which manages businesses for profit.

(b) The Ombudsman is entitled to permit an employee, upon application, to undertake one of the activities specified in sub-paragraph (a)(1) or (3), if the Ombudsman believes that the same does not create a conflict of interest and does not interfere with his work in the Ombudsman's Office in any other way; this permit does not exempt the employee from complying with any and all rule or Law which governs such activities.

12. Ombudsman's Office's Employees

- (a) Ombudsman's Office's employees are civil servants.

- (b) The Ombudsman is entitled to be assisted in conducting his work, if he considers it necessary, by persons who are not employees of the Ombudsman's Office; in investigating a complaint against a judge as aforesaid paragraphs (4) – (8), the Ombudsman will use the assistance of people who are familiar with the legal system to which the said judge belongs.

13. Confidentiality

- (a) The Ombudsman, the Ombudsman's Office's employees and any other individual assisting the Ombudsman's work are obliged to keep confidential all information they obtain as a result of their work and are obliged to avoid using this information or disclosing said information to a third party unless they are required to do so in order to perform their work as stipulated in this Law. Employees will sign a confidentiality agreement prior to their employment.

- (b) Notwithstanding the aforesaid in sub-paragraph (a), the Minister of Justice or President of the Supreme Court is entitled to receive, upon request, a copy of any and all material or information possessed by the Ombudsman that was obtained within the framework of his activities, but any material or information with reference to a specific complaint will be released only after the investigation has been completed.

- (c) The President and the Minister are together entitled to permit disclosure of any or all of the particulars of a specific complaint against a judge once the processing of the complaint has been completed.

14. Filing a Complaint

- (a) Any individual who feels that he or she was injured by a judge's conduct in the fulfillment of his duties, including the manner in which the judge conducted the trial, or a party representing the said individual, is entitled to file a complaint with the Ombudsman.
- (b) The President or the Minister is entitled to ask the Ombudsman to investigate any matter concerning a judge's conduct in fulfilling his duties, including the manner in which he conducts a trial.

15. Procedure to File a Complaint

The complainant must submit a signed written complaint that includes the name and address of the complainant.

16. Complaint of a Person in Custody

A complaint of an individual as set out in paragraphs (1)-(3) will be submitted in a sealed envelope as specified in said paragraphs or by an individual representing the complainant, and shall be passed on unopened to the Ombudsman:

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- (1) A prisoner as defined by the Prisons Ordinance [New Version] – 1971, to the warden of the prison where he is being held;
 - (2) An arrestee as defined by the Criminal Procedure Law (Jurisdiction, Enforcement and Arrest) Law, 1996, or a prisoner who is being held in a remand center, to the warden of the remand center where he is being held;
 - (3) A prisoner as defined in the Military Justice Law, to the Commander of the prison facility where he is being held.

17. Complaints that will not be investigated

The Ombudsman will not investigate any of the following complaints:

- (1) A complaint other than one concerning a judge or to a judge's conduct in the fulfillment of his duties, including the manner in which the Judge managed the trial;
- (2) A vexatious complaint, or a complaint that on the face of it involves trivial issues;
- (3) A complaint concerning substantive legal or evidentiary issues;
- (4) A complaint concerning an issue that is subject to appeal by law, other than an issue related to the judge's conduct in the fulfillment of his duties, including the manner in which the judge managed the trial;
- (5) An Application by a litigant for the judge to disqualify himself due to circumstances which amount to an actual probability of bias in the conduct of the trial; If a complaint includes, in addition to the

application for disqualification, matters in which the Ombudsman is entitled to inquire pursuant to this Law, the Ombudsman will investigate the part unrelated to the application for disqualification.

- (6) The complaint regards a matter that is the subject of a police investigation or in respect of which a complaint has been filed with the Judicial Disciplinary Tribunal.

18. Complaints whose investigation requires a special reason

- (a) The Ombudsman will not investigate the following complaints unless he finds a special reason that justifies investigation:

- (1) The complaint was filed after the elapse of more than one year after the incident that is the subject of the complaint occurred, or after the day on which the right of action on the incident became known to the complainant, or after the day of the court's decision regarding the subject of the proceeding that is referred to in the complaint, whichever be the later;
- (2) A complaint on a matter that has been the subject of a decision that can, or could have been, appealed and is not among the list of complaints that cannot be investigated.

- (b) The Ombudsman is entitled to refuse to investigate a complaint if he believes that it should not be investigated by him by virtue of it being more appropriate for an application to disqualify the judge.

(c) The Ombudsman's decisions in accordance with this paragraph will be reasoned and in writing.

19. The Complaint, the grounds therefore and the opening of an investigation

(a) A complaint may be filed against any judge regarding that judge's conduct in the fulfillment of his duties, including the manner in which the Judge managed the trial.

(b) Once a complaint has been filed, the Ombudsman will confirm receipt thereof and will open an investigation of the complaint, unless he decides that the complaint should not be investigated for reasons specified in paragraph 17, or is not appropriate for investigation for reasons specified in paragraph 18.

(c) Should the Ombudsman decide not to investigate a complaint, he will inform the complainant of the decision in writing, and will give the reasons for his decision.

(d) Should the Ombudsman decide to investigate the complaint, he will inform the judge who is the subject of the complaint, the Minister, the Director and the President of the court where the judge serves.

(e) In the notification pursuant sub-paragraph (d), the Ombudsman is entitled to not include the particulars of the complainant if he deems the inclusion of said information is not necessary for the investigation of the complaint; this sub-paragraph does not derogate from the

authority invested in the Minister of Justice and the President of the Supreme Court as set out in Paragraph 13(b).

20. The Investigation, Its Methods and its Duration

- (a) The Ombudsman is entitled to investigate into the complaint in any manner he deems proper and is not subject to rules of procedure or of evidence.
- (b) For the purposes of the investigation, the Ombudsman is entitled, subject to sub-paragraph (c) below, to receive from any individual or body, within a period of time he or she will determine and in a manner he or she will decide upon, any information or document that the Ombudsman believes could assist the inquiry into the complaint; a party who is required to submit said information or document will comply with the request, and the provisions of paragraph 11, (excluding paragraphs (1) and (3) of sub-paragraph (a)) of The Commissions of Enquiry Law – 1968, will apply, *mutatis mutandis* to any refusal to comply with the request.
- (c) For the purpose of the investigation, the Ombudsman is entitled to hear the complainant, the judge who is the subject of the complaint, and any other individual he deems necessary; a judge who is the subject of the complaint who refuses to submit oral testimony will submit written testimony as required.

- (d) The investigation into the complaint will be completed no later than one year from day the complaint is received by the Ombudsman's Office.

21. Termination of the Investigation

The Ombudsman is entitled to terminate the investigation into the complaint if he is satisfied that one of the grounds for not investigating the complaint exists if the subject matter of the complaint is rectified or if the complainant has withdrawn the complaint; should the investigation be terminated in accordance with this paragraph, the Ombudsman will notify the complainant, the judge who is the subject of the complaint and any party specified in paragraph 19(d), in writing, that he has decided to terminate the investigation and will state the reasons for his decision.

22. Results of the Investigation

- (a) Should the Ombudsman find that the complaint was justified, he will notify the complainant, the judge who is the subject of the complaint and whoever is specified in paragraph 19(d), as the case may be, and attach a copy of his decision; In that notice, the Ombudsman is entitled to give brief summary of his findings, wholly or in part, and if the investigation disclosed a defect, the Ombudsman is entitled to propose rectification of the defect as well as the appropriate manner in which to do so.

- (b) Where notification is given on the need to rectify a defect as aforesaid in sub-paragraph (a), the judge who is the subject of the complaint, the Director or the President of the court where he is serving, will notify the Ombudsman of the steps adopted to rectify said defect; should no notification be received within a reasonable period of time, or should the notification not satisfy the Ombudsman, the Ombudsman is entitled to bring matter to the attention of the President and the Minister.
- (c) Should the Ombudsman find the complaint to be groundless, he will notify the complainant and the parties specified in Paragraph 19 (d), as required, and is entitled to give them a summary of his findings.
- (d) Should the investigation into the complaint lead to suspicion of a criminal act, the Ombudsman will bring the issue to the knowledge of the Attorney General as well as to the Minister and the President; should the investigation into the complaint lead to suspicion of a disciplinary offence, the Ombudsman will bring the issue to the knowledge of the Minister and the President, and is entitled to recommend to the Minister the filing of a complaint with the Judges Disciplinary Tribunal.
- (e) The Ombudsman is entitled, should he deem it necessary following his findings, to recommend to the Judges Appointments Committee to dismiss the judge from office in accordance with its authority, or to recommend to the Minister or the President to propose to the Judges Appointments Committee to end the judge's term; Should the Committee, Minister or President decide not to accept the

Ombudsman's recommendations, they will specify the reasons for their decision.

23. Restrictions on Explanations and Disclosure of Findings

- (a) (1) The notification by the Ombudsman in accordance with paragraph 22 will not include or disclose material or information that the Prime Minister or the Minister of Defence believes are a security matter, or that the Prime Minister or Foreign Minister believes affects the State's foreign relations or international commercial connections.
- (2) Should the Ombudsman perceive that his notification might include or disclose material or information specified in subparagraph (a) and the Ministers have not expressed an opinion, the Ombudsman will request the opinion of the Prime Minister, Minister of Defense or the Foreign Minister, as appropriate, prior to issuing his notification.
- (b) The Ombudsman is exempt from noting his findings or reasons, wholly or in part, or from noting any amendments or deletions, or from passing them on to some of those persons particularized in paragraph 19(d) –
- (1) If in his opinion they might unlawfully infringe upon the right of any person other than the complainant;

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- (2) If they disclose any professional confidence or secret as defined in any Law.
- (c) Should the Ombudsman state only part of his findings or reasons, or should he delete or amend the same, this will be stated in the notification in accordance with paragraph 22.
- (d) The provisions of this paragraph do not derogate from the authority of the President of the Supreme Court and of the Minister of Justice to receive, pursuant to their request, a copy of any or all information or material in the possession of the Ombudsman's Office that was obtained in the course of its activities, as aforesaid in paragraph 13(b).

24. Rights and Remedies

- (a) The Ombudsman's decisions and findings regarding the complaint –
- (1) Do not provide the complainant or any other party any right or remedy in the court of law that was not previously due to them;
- (2) Will not prevent the complainant or any other party from enforcing any right or petitioning for a remedy to which they are entitled, and in so far as a date is laid down in legislation for such acts, that date shall not be extended by virtue of the filing or investigation into the complaint.

(b) A report, decision and any other document prepared by the Ombudsman as part of his duty will not serve as evidence in a legal or quasi legal proceeding.

(c) The court will not entertain any application for a remedy against the decisions and findings of the Ombudsman regarding the complaint.

25. Salary and Terms of Incumbency

The Ombudsman's salary, terms of employment and pension will be that of a judge of the Supreme Court.

26. Independence

The Ombudsman and Ombudsman's Office's employees are subject to no authority other than the law in fulfilling their duties in accordance with this Law.

27. Report

(a) The Ombudsman will submit to the Minister of Justice and the President of the Supreme Court a report of his activities every year. This report will include a detailed description of the investigation into complaints, as well as a general review that will refer, inter alia, to the following matters divided into judges and courts:

(1) The number of complaints filed and the number of complaints investigated;

- (2) The number of complaints found to be justified;
 - (3) The reasons for not investigating into complaints;
 - (4) Average time of investigating into complaints;
 - (5) The number of complaints where the investigation has not yet been completed;
 - (6) Types of issues that were the subject of the complaints;
 - (7) Measures adopted to correct and eradicate defects;
 - (8) Number of complaints that raised suspicion of criminal and disciplinary offences, if any;
 - (9) Number of recommendations to the Judges Appointments Committee, Minister or President to dismiss a judge from office, if any.
- (b) Once the Minister of Justice receives the annual report from the Ombudsman, he will submit the report to the Knesset Constitutional, Law and Justice Committee based on the general review as specified in sub-paragraph (a); the report given in accordance with this sub-paragraph will not include any names or identifying information.

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- (c) The Ombudsman is entitled to submit to the Minister and the President of the Supreme Court a special report prior to submitting the annual report.
- (d) The information included in these reports will be subject to the provisions of paragraph 23.

28. Publication of Notifications

The Minister of Justice will publish a notice of the appointment of the Ombudsman, the method of applying to him and the Ombudsman's principal jurisdictions as determined by regulations.

29. Ombudsman's Office Budget

The Ombudsman's Office budget will be formulated by the Minister of Justice in conjunction with the Ombudsman and will be part of the Annual Budget Law, as a separate sphere of activity, within the Ministry of Justice budget.

30. Regulations

- (a) The Minister of Justice is responsible for enforcing this Law and is entitled, pursuant to the approval of the Knesset Constitutional, Law and Justice Committee, to enact regulations therefor.
- (b) The Minister of Justice will lay these regulations (in accordance with paragraph (28)) before the Knesset Constitutional, Law and

Justice Committee for approval within three months of the day of publication of this Law.

31. The First Ombudsman

The first Ombudsman will be appointed no later than 120 days after the publication of this Law.

32. Amendment to the Military Justice Law - No. 40

In the Military Justice Law –

(1) In paragraph 1, the following will appear after the definition of a “military offence”:

“The Ombudsman – Ombudsman for Complaints against Judges, who was appointed in accordance with paragraph 3 of the Ombudsman for Complaints against Judges Law, 2002”;

(2) In paragraph 192c of the Military Justice Law, the phrase “or the Ombudsman” will appear after “President of the Military Court of Appeals”.

33. Amendment to the Dayanim Law – No. 19

In the Dayanim Law –

(1) In paragraph 1, the following will appear after the definition of “Chief Rabbinical Council”:

“The Ombudsman” – Ombudsman for Complaints against Judges, who was appointed in accordance with Paragraph 3 of the Ombudsman for Complaints against Judges Law – 2002;

(2) In paragraph 16a(a), the phrase “or the Ombudsman” will appear after “As President of the Great Rabbinical Courts”.

34. Amendment to the Qadis Law - No. 11

In the Qadis Law –

(1) In Paragraph 1, the following will appear after the definition of “Qadi”:

“The Ombudsman” - Ombudsman for Complaints against Judges, who was appointed in accordance with paragraph 3 of the Ombudsman for Complaints against Judges Law – 2002;

(2) In paragraph 13a(a), the phrase “or the Ombudsman” will appear after “As President of the Sharia Courts of Appeal”.

35. Amendment to the Druze Religious Courts Law - No. 13

In the Druze Religious Courts Law –

(1) In paragraph 1, the following will appear after the definition of “the Council”:

“The Ombudsman” – Ombudsman for Complaints against Judges, who was appointed in accordance with Paragraph 3 of the Ombudsman for Complaints against Judges Law – 2002;

(2) In paragraph 19a(a), the phrase “or Ombudsman” will appear after “President of the Court of Appeals”.

36. Amendment to the Freedom of Information Law - No. 2

In paragraph 14(a) after sub-paragraph (11) of the Freedom of Information Law – 1998, the following will appear:

“(12) “The Ombudsman for Complaints against Judges – With reference to an investigation into a complaint against a judge in accordance with Ombudsman for Complaints against Judges Law – 2002.