



Report of the State Comptroller of Israel | May 2022

Prime Minister's Office - Civil Service  
Commission

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# **Handling Disciplinary Offences In The Civil Service – Extended Follow-Up**





## Handling Disciplinary Offences In The Civil Service – Extended Follow-Up

### Background

The Civil Service bodies in Israel are the Government ministries, their auxiliary units, and hundreds of other bodies, including Government companies, religious councils, and corporations formed according to the law. The Civil Service provides services to Israeli residents in various fields. Its quality depends significantly upon the professional-functional level of the public servants and their moral level. To ensure proper activity, the organization should ascertain that a system of obligations is adequately set up. Damage to the organization on the part of an employee entails a response on the employer's part in the imposition of disciplinary measures on an employee who has violated the obligations. The primary purpose of the disciplinary measures, from a warning or rebuke to the expulsion of an employee who is not fit for service, is defensive and of a preventative nature, and is designed to ensure discipline, order, and the public administration's proper activity. The Civil Service Commission (CSC), together with the Government ministries, the auxiliary units, and the public bodies to which the Civil Service (Discipline) Law, 1963 (the Discipline Law or the Law), and the Regulations enacted by virtue thereof apply as aforesaid, are entrusted with the handling of discipline in the Civil Service.



## Key figures

**approx.**

**253,000**

employees to whom the Discipline Law applied in 2021 (an increase of 13% relative to 2015)

**828**

disciplinary files were opened in 2020

**18%**

the reduction in the number of disciplinary investigations in the years 2015–2020, as opposed to an increase in the number of disciplinary files in those years

**76%**

the rate of disciplinary complaints closed by reason of "no room for disciplinary measures" against the employee

**20**

total disciplinary prosecutors and investigators in the CSC in 2021 (12 prosecutors and eight investigators)

**1**

active disciplinary investigator in the educational system, as opposed to the need for 17 investigators, according to the CSC

**74%**

of the items of information ("cells") in the Investigations Department database were empty, as were 65% of the cells in the Disciplinary Department's database

**NIS 87.9 million**

an estimate of the inclusive salary cost to the employer (the State) for a suspension period of 114 employees. 38% of the employees were suspended for three years or more

## Audit actions



From January to June 2016, the State Comptroller's Office conducted an audit on "Handling Disciplinary Offences in the Civil Service", and its findings were published in April 2017<sup>1</sup> (the Previous Audit). From April to August 2021, the State Comptroller's Office examined the extent the deficiencies raised in the Previous audit had been rectified including: the duration of the disciplinary proceeding, the promotion of an amendment to the Discipline Law, the ongoing handling of disciplinary offenses, the disciplinary investigators in the ministries, administrative difficulties of proceedings in the disciplinary tribunal, employee suspension due to a criminal or disciplinary proceeding and the application of the Discipline Law to public corporations (the Follow-Up Audit). In some

<sup>1</sup> The State Comptroller, **Special Audit Review**, April 2017, "Handling Disciplinary Offences in the Civil Service".



of the subjects, new issues which had not been examined in the Previous Audit were also examined. Likewise, some additional subjects were examined: the CSC database as a professional management tool and the organizational and proper structure of the disciplinary system. The audit was conducted in the CSC. Supplementary examinations were conducted at the Ministry of Justice, the Ministry of Education, the Bank of Israel, the Israel Broadcasting Corporation, and several other public corporations.

## Key findings



**The scale of the discipline activity** – the number of disciplinary files opened in the years 2015–2020 increased by 126%; however, the rate of cases where the Disciplinary Department or the ministries found that the suspicion raised was substantiated, and so disciplinary measures were taken, or claims were filed in the disciplinary tribunal, out of all the complaints received, decreased in the years 2015–2020 from 31% to 20%. The decline in these cases should be examined against the background of the decrease in the number of disciplinary investigations (18%) and the limited increase in the scale of claims filed by the Disciplinary Department (approx. 15%). Ever-increasing use was made of the lenient measures and less, relatively, of the disciplinary measures requiring proceedings in the disciplinary tribunal.




**The handling duration of disciplinary offenses** – the CSC has not formed a standard regarding the time and the stages of handling the disciplinary proceeding. The average period of handling a disciplinary complaint extended from 18.5 months in the Previous Audit to 20.6 months in the Follow-Up Audit: the average time of handling by the Investigations Department extended by one and a half months and by the Disciplinary Department – by one month. Most of the disciplinary complaints (76%) ended without taking any ministerial disciplinary measures or filing a claim, including complaints whose handling took more than one year and up to several years. The prolonging of the disciplinary proceeding in the investigations and discipline departments, over three years since the suspicion of a disciplinary offense reported to the Commission, was a significant consideration in reducing the punishment.





**Promotion of the amendment to the Discipline Law** – the CSC did not complete the promotion of the amendment to the Discipline Law, which began in 2005. The Ministry of Justice, for its part, did not facilitate the legislative process but awaited the CSC to handle the Ministry's comments on the draft Law. Since the Previous Audit, the CSC and the Ministry of Justice have not examined the required regulation regarding the ministries and the disciplinary committees' powers. Thus, there is still a concern about poor and lenient handling in cases where it would have been appropriate to





implement more stringent disciplinary proceedings or file claims in cases where more lenient disciplinary proceedings would have been sufficient.

 **Ministerial disciplinary measures** – since the publication of the Previous Audit, no appropriate arrangement has been formulated addressing the weakness of the treatment of disciplinary offenses by the ministries, particularly offenses of medium severity. Such an arrangement was not implemented in the draft amendment to the Discipline Law.

 **Appeal against the decision of the Disciplinary Department** – it is impossible to file an appeal against discipline decisions (which are not within the field of sexual harassment). Since June 2017, the Economics Department at the State Attorney's Office has been the body handling appeals by the offense victims against the Disciplinary Department decision in sexual harassment offenses. Still, a permanent procedure has not yet been approved regulating the party that will handle the appeal.


 **Disciplinary investigators** – according to an analysis made, disciplinary investigators should be appointed in 49 ministries; and in 6 other ministries, there is no need to appoint disciplinary investigators; it has not been determined whether investigators should be appointed in 8 ministries, and if so – how many investigators, and in total, according to the analysis, 120 investigators should be appointed. In 2021, there were 112 disciplinary investigators in the ministries. The distribution of the investigators among the ministries was not according to need: 94 investigators were appointed there (78% of what was required); in 14 of the 49 ministries above (29%) where it was necessary to appoint disciplinary investigators according to the need, no investigators were appointed. In 12 other ministries (22%), the number of disciplinary investigators was less than required; investigators were in the eight ministries above.


 **Employees suspension due to a criminal or disciplinary proceeding** – the number of employees suspended for three years or more and the rate of them out of all the suspended employees rose from 28 (24%) as of the Previous Audit to 43 (38%). The CSC did not examine the financial aspect of salary paid during the suspension period and did not calculate the annual cost of the salary payments to suspended employees. According to a calculation by the State Comptroller's Office, an estimate of the inclusive salary cost for the entire period of the suspension of the 114 employees who were suspended in August 2021 totaled NIS 67.6 million, and the salary cost to the employer calculated according to a 30% addition to the gross salary was NIS 87.9 million.

 **The CSC information system as a professional management tool** – the CSC does not have any reliable and consistent data or suitable tools to control over and track the handling stages of disciplinary offenses. Gaps arose in the information systems – 65% of the information cells of the handling stages in the Disciplinary Department's database were empty. For example, in 69% of the complaints, the database did not note the handling stage of the complaint, and in 69% of the complaints, the identity of the body handling it was not pointed out. 74% of the cells in the Investigations Department



database were empty. For example, in 88% of the investigations, the complaint receiving date was not noted in the database. In 74% of the investigations, the investigation serial number was not stressed. 69% of the cells in the Disciplinary Tribunal's database were empty. For example, in 30% of the files, the cells in which the tribunal district is concerned had been left blank, and in 93% of the files, the claim filing date was not noted. As of November 2021, the complaint or the investigation file is a physical file. Some of the information is inputted manually into the discipline module, and the CSC has not promoted the automation of the files. The CSC has not established an electronic database of all the disciplinary proceedings opened, which would enable, among other things, the tracking of the recommendations implementation, and it does not have statistical data regarding the extent and time the ministries had adopted the Discipline Department recommendations.

 **Organizational and proper structure of the disciplinary system** – in the years 2015–2020, the number of complaints to the CSC by ministries almost doubled and reached 2,460; the number of disciplinary files opened during these years following the complaints increased by 126%, and simultaneously the number of prosecutors and disciplinary investigators in the CSC was reduced by 13% (from 23 during 2015 to 20 during 2021). Due to the human resources reduction in the disciplinary departments core areas (investigators and prosecutors) and the increase in the number of disciplinary complaints, the number of complaints to the prosecutor and the investigator grew over five years to 2.5 times and 2.8 times, respectively (from approx. 28 complaints to the prosecutor during 2015 to 69 complaints to the prosecutor during 2020, and from approx. 37 complaints to the investigator during 2015 to approx. 104 complaints to the prosecutor during 2020). The director of the Discipline Department presented this to the Civil Service Commissioner as the inability to address the requirements of the ministries and of the victims of an offense in the disciplinary files.

 **The application of the Discipline Law to public corporations** – the Ministry of Justice did not map the public corporations for locating those with inadequate provisions regulating disciplinary law regulation applicable to employees, and it did not examine their ongoing handling in a binding normative disciplinary system. Moreover, no regulatory solution was promoted, and some corporations lack rules and procedures regulating the clarification and investigation of the suspicion of a disciplinary offense.

- **The Bank of Israel** – although about 15 years have passed since the Government decided to apply the Discipline Law to the employees of the Bank of Israel and five years since the Previous Audit, the management of the Bank of Israel has not yet regulated a complete normative framework of handling disciplinary offenses.
- **Yad Vashem** – the World Holocaust Remembrance Centre - Yad Vashem – (an organization that employs more than 800 employees) handled one suspicion of a disciplinary offense for over five years and used the General Disciplinary Regulations, which are not appropriate for the organization's fields of activity.



- **The Israel Standards Institute** – the management of the Standards Institute believes that the existing normative regulation does not provide it with the tools required to handle suspicious disciplinary offenses by its employees.
- **Magen David Adom** – the organization's management does not have a complete picture of all the suspicions of disciplinary offenses in the organization, the proceedings for handling them, and the results thereof. For example, the organization's management does not have statistical data about the number of disciplinary complaints, cases where disciplinary measures were taken, and the number of suspended employees.
- **The Israeli Broadcasting Corporation** – the corporation conducted internal disciplinary investigations (without referring them to the CSC) of 11 employees. However, regarding six of them, the corporation was required to report to the CSC.



The cooperation between the Investigations Department and the Disciplinary Department has improved.

The State Comptroller's Office commends the Tax Authority to publish the disciplinary measures taken toward employees.

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## Key recommendations



It is recommended that the CSC determine a standard for the continuation of the disciplinary proceeding and all stages thereof to realize the purposes of the disciplinary laws and fulfill the provisions of the Discipline Law while safeguarding the employees' rights.



It is recommended that the CSC promote the amendment to the Discipline Law, and complete the draft Law so the Ministry of Justice can promote the legislative process. It is recommended that within the formulation of an updated version of the amendment to the legislation between CSC and the Ministry of Justice, the interim stratum handling of the disciplinary offenses be regulated, and the renewal of the Disciplinary Committees' activity be considered. Likewise, it is recommended that the CSC analyze and formulate an arrangement serving as the basis for an amendment to the Discipline Law, such as the arrangement proposed by the Kremnitzer Committee – to endow the





management with additional administrative support measures in the handling of disciplinary violations.



It is recommended that the CSC validate the number of investigators required in all the ministries and appoint them according to the need of the bodies to which the Discipline Law applies. It is further recommended that the Investigations Department ascertain that the disciplinary investigators in the ministries comply with the threshold conditions it has determined and that they undergo training and are authorized on the dates they decided, and also ascertain with the ministries that it is possible to extend the validity of the investigator's authorization before extending it.



The CSC should reduce the long periods of suspension involving the payment of salary, either by speeding up the disciplinary process within the responsibility of the Commission stands as aforesaid or by considering a salary reduction in the appropriate cases, or by increasing the supervision over the ministries on setting off his income from additional employment from the salary paid to the suspended employee, to prevent the unlawful payment of salary during the period of suspension. It is further recommended that the CSC examine additional ways of dealing with extended period suspensions, either from the aspect of filling the position of the suspended employee or by an alternative model periodically surveying the suspension continuation and its application and would encourage long period suspended employees to find private employment with approval, in return for a partial reduction in their salary. In addition to the Ministry of Justice actions, it should reduce the handling time of suspended employees cases.



It is recommended that the CSC examine the resources of the Disciplinary and Investigations Departments and their working processes, given the missions imposed upon them. The examination findings shall determine the necessity to add positions and, if so – it shall achieve them. It is further recommended that the CSC fill all the positions in the Investigations Department. Furthermore, it is recommended that the CSC consider performing the tasks of the disciplinary investigators and the prosecutors by outsourcing in appropriate cases.



In consultation with the Ministry of Justice, it is recommended that the Civil Service Commission formulate a normative system for regulating the disciplinary laws in the public corporations to which the Discipline Law applies, with the ministries responsible for the corporations.

- It is recommended that the management of the Bank of Israel apply the Discipline Law to the Bank. Alternatively, it should apply disciplinary rules, similar to those applied in the Civil Service.
- It is recommended that the management of the Israel Standards Institute complete the negotiations with the employees and regulate good working rules to handle suspicions of disciplinary offenses.





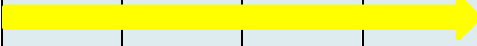

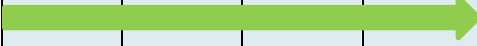
- It is recommended that the Yad Vashem Corporation formulate updated rules for handling disciplinary offenses suspicions, including sexual harassment, and realize exhaustive handling of the disciplinary aspects in the organization.
- MDA should gather complete information about all the disciplinary offenses suspicions in the organization, the proceedings for handling them, and the results thereof, control the discipline handling in all parts of the organization, and ascertain that it is being duly implemented.
- It is recommended that the Attorney General examine whether the Commission's policy concerning the clarification of complaints about sexual harassment in the Israel Broadcasting Corporation is legally valid and send the examination findings to the Commission and the Corporation.
- It is recommended that the CSC formulate rules of action for handling disciplinary offenses suspicions and sexual harassment complaints in the Israel Broadcasting Corporation, also based on the examination findings above. The Israel Broadcasting Corporation should act by the rules formulated by the Commission to ascertain that its employees are treated respectfully by the other employees and managers in the Corporation and confirm that the employees' and managers' complaints are properly handled.



## The Extent of the Rectification of The Main Deficiencies in The Previous Audit

Audit Chapter	Previous Audit deficiency	The extent of the deficiencies rectifications in the follow-up audit				
		Not Rectified	Rectified to a Small Extent	Rectified to a Partial Extent	Rectified to a Large Extent	Fully Rectified
The standard for the disciplinary proceeding's duration	The CSC has not formed a binding timetable for the disciplinary proceeding stages.					
Promotion of amendment to the Discipline Law	At the completion date of the Previous Audit, the handling of the draft law of 2014 has not yet finished.					
Opening of the disciplinary proceeding	There were disagreements in the CSC regarding handling a Ministry's application to the CSC due to disciplinary offense suspicion; considerable parts of the disciplinary proceedings were not opened according to the provisions of the Takshir.					
Cancellation of the Disciplinary Committee	A concern was raised that the cancellation of the Disciplinary Committee, along with additional deficiencies due to failure to amend the legislation, led to inappropriate and lenient handling in cases where it would have been appropriate to apply more stringent disciplinary proceedings or to file complaints in cases where more lenient disciplinary proceedings would have been sufficient.					



Audit Chapter	Previous Audit deficiency	The extent of the deficiencies rectifications in the follow-up audit				
		Not Rectified	Rectified to a Small Extent	Rectified to a Partial Extent	Rectified to a Large Extent	Fully Rectified
Ministerial disciplinary measures	About one-half (48%) of the Government ministries believed they did not have sufficient disciplinary measures to deal with disciplinary offenses. It was recommended to the CSC to examine with the Ministry of Justice and other parties the possibility of formulating a desirable policy addressing offenses of medium severity within the draft Discipline Law.					
Appeal against the Disciplinary Department Decision	It is impossible to appeal against the discipline decisions (which are not within the field of sexual harassment).					
	It was not determined which party would deal with the appeal against the sexual harassment decisions of the CSC.					
Retirement in place of continuation of the disciplinary proceedings	The CSC has not decided regarding the cessation of the disciplinary proceeding against an employee following his retirement would be made after considering the chances he would return to the Civil Service in the future.					
Authorization of disciplinary investigators in the ministries	The CSC has not determined the threshold conditions required from a disciplinary investigator in the Government ministries.					



Audit Chapter	Previous Audit deficiency	The extent of the deficiencies rectifications in the follow-up audit				
		Not Rectified	Rectified to a Small Extent	Rectified to a Partial Extent	Rectified to a Large Extent	Fully Rectified
Number of authorized disciplinary investigators in the ministries	The CSC has not determined any criteria concerning the required investigators number in every ministry and auxiliary unit; the Investigations Department did not analyze the existing risks in every department to decide how many investigators are required.					
Administrative difficulties in the Disciplinary Tribunal	The President of the Disciplinary Tribunal noted administrative difficulties that have not yet been resolved.					
Publication of the judgments of the Disciplinary Tribunal	The decisions of the Disciplinary Tribunal were published in scanned files, and it was not possible to search for them using keywords.					
The data in the computerized system	The CSC did not have access to reliable and consistent data about the disciplinary offenses handling stages.					
Tracking the implementation of the CSC's recommendations	No inclusive statistical data was gathered to assess the extent the Government ministries adopted the disciplinary measures recommendations of the Disciplinary Department regarding taking disciplinary measures and within what time from the date of the recommendation did the ministries take the disciplinary measures.					



Audit Chapter	Previous Audit deficiency	The extent of the deficiencies rectifications in the follow-up audit				
		Not Rectified	Rectified to a Small Extent	Rectified to a Partial Extent	Rectified to a Large Extent	Fully Rectified
Striking out disciplinary records in the Merkava system	If no suspicion against an employee was found after closing a disciplinary file, the record in the Merkava system is not struck out. It accompanies the employee throughout his service in the Civil Service.					
Application of the Discipline Law to public corporations	The system of norms in some corporations lacks rules and procedures regulating the clarification and investigation of the disciplinary offense, its report to the corporation executive and its information documentation.					
The Bank of Israel	In 1994, the Israel Bank's management decided to apply the Discipline Law to the Bank's employees, but eventually did not do so. Its normative dealing with disciplinary events is inadequate. It did not allow it to thoroughly and adequately deal with disciplinary offenses.					



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## Summary

The Discipline Law applied over about 253,000 employees during 2021, and the discipline handling is mainly the responsibility of 33 employees in the Discipline and Investigations Departments at the CSC and 112 disciplinary investigators in the ministries. From 2015 to 2020, the number of disciplinary files grew by 126%. The follow-up audit raised that the CSC had not rectified a considerable part of the deficiencies in the Previous Audit. The State Comptroller's Office recommends that the CSC rectify the deficiencies, as set out in detail above, to ensure the regular operation of the public administration and its employees.

