



Cambridge
International

Professional Research Thesis

Titled

*Disciplinary authority between administration
and judiciary, a comparative study.*

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SUMMARY

Disciplinary authority is one aspect of the public authority exercised by the state to ensure the proper functioning of public facilities and the orderly conduct of administrative work. It represents a fundamental tool in the hands of the administration to maintain order and discipline within administrative bodies and institutions, particularly concerning public service employees. The significance of disciplinary authority is not limited to its administrative dimension; it also encompasses legal and judicial aspects that have a direct impact on the principle of the rule of law and the guarantees of human rights in facing abuses of power.

The increasing intervention of the state in various aspects of public life and the expansion of the administrative apparatus have led to a rise in instances of breaches or violations of official duties, necessitating the activation and development of disciplinary oversight mechanisms granted to the administration. However, the exercise of this authority is not absolute; it must be constrained by legal safeguards that prevent arbitrariness and ensure a balance between the administration's interest in maintaining functional order and the employee's rights to defend themselves and to a fair trial.

In this context, the judiciary plays a prominent role as a supreme oversight body that ensures the administration does not deviate in exercising its disciplinary powers and guarantees the protection of employees' rights and freedoms. Legal systems vary in regulating the relationship between the administration and the judiciary in the field of discipline. While some systems grant the judiciary a limited role confined to formal oversight, others have expanded judicial review to include substantive legitimacy and appropriateness of disciplinary sanctions.

Given this overlap between the competencies of the administration and the judiciary in the disciplinary domain, comparative study on this subject becomes crucial. It aims to identify the best legal and procedural practices that achieve the desired balance between the two authorities and to provide a critical approach to the legislative and judicial reality in the two systems under study, thereby contributing to the development of national systems and guiding legislators towards greater effectiveness and justice in regulating disciplinary authority.

*From this standpoint, the chosen topic of this thesis is: **“Disciplinary Authority between Administration and Judiciary: A Comparative Study,”** with the aim of delving into the legal and regulatory frameworks governing disciplinary authority in both systems under comparison, analyzing the*

roles of both the administration and judiciary in exercising this authority, and evaluating the effectiveness of the legal guarantees surrounding it, while addressing practical issues arising in this context.

The importance of this study lies in both its theoretical and practical dimensions; on one hand, it seeks to root the legal concepts related to disciplinary authority, and on the other hand, it aims to assess the effectiveness of judicial and administrative practices in controlling this authority and preventing its abuse. Moreover, the comparative dimension grants the study added value by elucidating strengths and weaknesses in each legal system, thus opening the door to benefiting from different experiences to improve the national system.

The study Problem.

Disciplinary authority is considered one of the most important administrative tools for enforcing discipline within the workforce and ensuring adherence to regulatory rules and directives, thereby achieving the smooth and effective operation of public services. However, despite its legitimacy and necessity, this authority raises complex legal issues concerning how it is exercised, the extent to which the administration respects legal limits, and the safeguards guaranteed to public employees during disciplinary proceedings. This matter becomes even more complex when administrative disciplinary authority intersects with judicial oversight powers, especially given the differences among legal systems in defining the scope of judicial review over administrative decisions—whether it is limited to legality review only or extends to appropriateness review.

The core of the problem lies in finding the precise balance between the administration's right to exercise its disciplinary powers to ensure workforce discipline and the employee's right to protection from administrative abuse, as well as to a fair trial that guarantees the right to defend oneself. This is particularly important since disciplinary

procedures can directly affect the employee's professional and social future.

In this context, several questions arise: Does the administration exercise its disciplinary authority within legal and substantive limits that protect the employee from arbitrariness? What is the real role played by the judiciary in restraining the administration when it exceeds its powers? Do these roles differ between legal systems? And to what extent are these systems effective in achieving the desired disciplinary justice?

The problem becomes more apparent when we observe the variation in standards and guarantees among comparative legal systems. Some systems grant the judiciary a limited role restricted to formal review of disciplinary decisions, whereas others broaden judicial intervention to include verification of the proportionality between the violation and the imposed sanction. This raises the question of what constitutes the optimal model that balances administrative requirements and the safeguarding of rights.

Hence, the problem of this study arises from the search for this balance between the administration's disciplinary authority and the limits of judicial oversight over it. The study aims to understand the legal framework regulating this relationship, identify strengths and weaknesses in practical applications through comparative analysis, and ultimately

reach proposals that contribute to enhancing disciplinary justice without undermining the effectiveness of public administration.

The importance of studying:

The importance of this study stems from the nature of the subject it addresses, as disciplinary authority touches upon the very essence of the relationship between the administration and the public employee— a relationship founded on the principles of order and workforce discipline on one hand, and on the guarantees of justice and the right to defense on the other. In a world where administrative and occupational challenges are increasing, it has become essential to reconsider the manner in which this authority is exercised within administrative bodies, especially given that it may sometimes be tainted by arbitrariness or deviations from procedural and substantive justice principles.

The significance of this study is further amplified by its provision of an in-depth legal analysis of the concept of disciplinary authority—not only as an administrative regulatory tool but also as a legal mechanism that must be subject to precise supervisory controls ensuring a balance between power and responsibility. Moreover, it seeks to elucidate the judiciary’s role in controlling this authority and to assess the effectiveness of judicial intervention in limiting deviations that may affect the rights of employees.

The scholarly value of the study is evident in its comparative nature; it does not limit itself to the national framework but extends to examining other

legal models in order to explore diverse experiences in organizing the relationship between the administration and the judiciary in the disciplinary domain. This comparative approach grants the study a broader perspective to understand the issue from multiple angles and contributes to drawing upon the best legal practices that could aid in developing national systems.

From a practical standpoint, the importance of the study lies in the insights and proposals it offers, which can serve as a basis for evaluating legal and administrative policies related to discipline. This aims to enhance the effectiveness of administration in performing its duties without compromising the constitutional and legal guarantees of employees. Accordingly, the findings of this study may hold direct benefits for legislators, administrative judiciary, public administrations, and even legal researchers interested in reforming the disciplinary system and achieving workplace justice.

Objectives of the study:

- *Clarifying the legal framework of disciplinary authority in the two systems under study.*
- *Defining the scope of the administration's powers in imposing disciplinary sanctions.*
- *Analyzing the role of the judiciary in supervising the legality and appropriateness of disciplinary decisions.*
- *Highlighting the legal safeguards guaranteed to public employees during investigation and disciplinary procedures.*
- *Comparing different legal systems in organizing the relationship between the administration and the judiciary in the disciplinary field.*
- *Evaluating the effectiveness of the existing balance between administrative authority and judicial oversight.*

Study hypotheses and questions.

First: Study Questions

- *What is the legal framework governing the administration's authority in the disciplinary field?*
- *To what extent does the administration have discretionary power in imposing disciplinary sanctions?*
- *What is the scope of judicial review over disciplinary decisions? Does it include legality review only, or does it extend to reviewing appropriateness?*
- *What legal safeguards are guaranteed to the employee during disciplinary procedures?*

Second: Study Hypotheses

- *The administration exercises its disciplinary authority within a legal framework that grants it a degree of discretionary power, yet it may sometimes lack effective oversight.*
- *The administrative judiciary exercises review over disciplinary decisions; however, the scope of this review may vary from one system to another regarding substantive aspects.*
- *Legal systems that broaden judicial oversight to include the appropriateness of disciplinary sanctions achieve a better balance between administrative efficiency and employee safeguards.*
- *There are fundamental differences among comparative legal systems in how they regulate the relationship between administration and judiciary in the disciplinary domain.*

Study Approach.

The comparative method was employed to examine “Disciplinary Authority between Administration and Judiciary: A Comparative Study.”

The limits of the study:

Spatial boundaries: The Arab world.

Time limits:2025-2004

Study plan.

The study plan will be organized as follows, comprising several chapters, sections, subsections, and a conclusion:

Chapter One: Theoretical Framework and Scientific Concepts

Section One: The Nature of Disciplinary Authority and Its Legal Sources

- 1. Definition of Disciplinary Authority and Its Types*
- 2. The Legal Nature of Disciplinary Authority*
- 3. Sources of Disciplinary Authority (Constitution, Legislation, Regulations)*

Section Two: Parties to Disciplinary Authority and Its Fields of Application

- 1. The Administration as a Disciplinary Authority*
- 2. The Judiciary as a Supervisory and Disciplinary Authority*
- 3. Categories Subject to Disciplinary Authority (Public Employees, Judges, Military Personnel)*

Chapter Two: Distinguishing Between Administrative and Judicial

Disciplinary Authority – A Comparative Study

Section One: Disciplinary Authority in the Administrative System

- 1. Disciplinary Procedures before the Administration*
- 2. Employee Safeguards before the Administrative Authority*
- 3. Judicial Oversight of Administrative Disciplinary Decisions*

Section Two: Disciplinary Authority in the Judicial System – An International Comparison

- 1. Disciplinary Authority in the Egyptian System*
- 2. Disciplinary Authority in the French System*
- 3. Points of Comparison and Differences Between Disciplinary Systems*

Conclusion.

After reviewing and analyzing the disciplinary authority in both the Egyptian and French systems—considering the legal and procedural foundations, competent bodies, types of oversight, and guaranteed safeguards—it becomes evident that administrative discipline constitutes one of the fundamental pillars of the state's legal system. This is due to its pivotal role in protecting public facilities, ensuring their orderly functioning, and achieving a balance between the requirements of effective performance and workforce discipline on one hand, and the rights of the public employee on the other.

The study revealed that the Egyptian system is characterized by detailed codification of disciplinary authority within the Civil Service Law and other specific legislations, alongside the existence of the Administrative Prosecution as an independent body reflecting the legislator's intent to enhance the professionalism and objectivity of disciplinary investigations. However, the study also highlighted that certain practical aspects still require development, especially concerning the expansion of administrative judiciary oversight over the proportionality of sanctions and the establishment of independent or quasi-judicial internal bodies that

involve the employee in safeguarding their interests, similar to the practices observed in France.

As for the French system, it presents an advanced model distinguished by the depth of its institutional structure and procedural safeguards. It has succeeded in achieving an effective balance between administrative authority and employee rights, notably through mechanisms such as joint administrative committees and proportionality review conducted by the administrative judiciary. This reflects significant progress in French legal thought regarding disciplinary justice. A distinctive feature of this model lies in how it organizes the relationship between authority and discipline on one side, and principles of procedural justice and human dignity on the other.

Through this comparison, commonalities between the two systems were identified, including the regulatory foundation of the employment relationship, the multiplicity of disciplinary authorities according to job categories, the subjection of disciplinary decisions to judicial review, and adherence to the principle of graduated sanctions. Differences were also noted, particularly regarding the institutional nature of disciplinary bodies, the extent of guarantees afforded to employees, and the general

philosophy governing sanctions—whether viewed as a corrective tool or still treated primarily as a means of punishment.

Results:

- *Disciplinary authority is a necessary legal tool to ensure administrative discipline within the public workforce.*
- *The Egyptian system grants the administration broad disciplinary powers, with partial judicial oversight concerning the appropriateness of sanctions.*
- *The Administrative Prosecution in Egypt functions as an independent investigative body but does not serve as a neutral disciplinary committee.*
- *The Egyptian administrative judiciary exercises strong control over the legality of disciplinary decisions, though it is sometimes limited regarding sanction appropriateness.*
- *The French system presents an advanced model in disciplinary safeguards and legal procedures.*
- *The presence of joint administrative committees in France enhances transparency and achieves institutional balance in accountability.*
- *The French Council of State exercises proportionality review between the offense and the sanction, unlike the situation in Egypt.*
- *Judges in both systems are subject to a special disciplinary regime, but with greater institutional independence in France.*

- *Military personnel discipline is governed by closed systems in both jurisdictions, with more explicit partial oversight in France.*
- *The French system adopts a reformatory philosophy toward sanctions, whereas the Egyptian system leans more toward a punitive approach.*

Recommendations:

- *Amend Egyptian legislation to explicitly enshrine the principle of proportionality between the violation and the disciplinary sanction.*
- *Introduce mechanisms for independent or mixed disciplinary committees within government entities to review severe sanctions before they are imposed.*
- *Grant the Egyptian administrative judiciary the authority to review both the appropriateness and legality of disciplinary decisions.*
- *Develop the role of the Administrative Prosecution to act as an investigative and mediatory body, rather than solely as a prosecutorial entity, thereby enhancing neutrality.*
- *Prepare binding codes of professional and disciplinary conduct in every government institution, and promote a culture of voluntary discipline.*
- *Standardize disciplinary procedures across different job categories while considering the specificities of certain sectors (judiciary, security, military).*
- *Enhance legal training for administrative leaders on disciplinary mechanisms and public employee safeguards.*
- *Empower public employees to defend themselves by involving employee representatives in serious disciplinary proceedings.*

- *Benefit from the French experience in reforming disciplinary sanctions and their gradation, viewing them as a means of correction rather than mere punishment.*

The reviewer:

Arabic references:

- أبو زيد، عبد المنعم. النظام التأديبي في الوظيفة العامة، دار النهضة العربية، القاهرة، 2014.
- عوض، محمد محمود. القانون الإداري: المبادئ العامة والأنظمة القانونية، دار الجامعة الجديدة، الإسكندرية، 2021.
- عبد العزيز، فؤاد. المسؤولية التأديبية للموظف العام، دار الفكر العربي، القاهرة، 2017.
- بسيوني، حسن. الرقابة القضائية على مشروعية الجزاء التأديبي، دار المطبوعات الجامعية، الإسكندرية، 2012.
- عبد الوهاب، يحيى. التأديب الإداري في ضوء أحكام مجلس الدولة، دار النهضة العربية، القاهرة، 2019.
- حمدي، أحمد رفعت. النظام القانوني للنيابة الإدارية في مصر، دار الجامعة الجديدة، الإسكندرية، 2020.
- الجبالي، محمد. دور القضاء الإداري في الرقابة على السلطة التأديبية، المركز القومي للإصدارات القانونية، القاهرة، 2018.
- الجنزوري، عبد الرحمن. الوظيفة العامة بين التنظيم الإداري والرقابة القضائية، دار الفكر الجامعي، الإسكندرية، 2016.
- الشهاوي، كمال. سلطة الإدارة في توقيع الجزاء التأديبي وحدود الرقابة القضائية عليها، دار النهضة العربية، القاهرة، 2013.
- سلامة، حسين. مبادئ التأديب في القانون الإداري، دار الكتب القانونية، القاهرة، 2015.

- الزهيري، علي عبد الفتاح. القانون الإداري وتطبيقاته في الوظيفة العامة، دار النهضة العربية، القاهرة، 2010.
- العشاوي، محمود. الوظيفة العامة في القانون المقارن، دار المطبوعات الجامعية، الإسكندرية، 2011.
- منصور، عبد الله. النظام التأديبي للموظف العام في التشريع المصري والفرنسي، دار الفكر الجامعي، 2019.
- الزياد، فؤاد. الرقابة على الجزاءات التأديبية في قضاء مجلس الدولة، دار النهضة العربية، القاهرة، 2022.
- صادق، نبيل عبد الحميد. النيابة الإدارية كجهاز للتحقيق التأديبي في مصر، مجلة الحقوق، جامعة عين شمس، العدد الثاني، 2018.
- محمد، عبد الجواد. تأديب الموظفين العموميين في ضوء القضاء الإداري الفرنسي، دار الفكر الجامعي، 2015.
- الشناوي، أحمد. التأديب الإداري للفئات الخاصة: القضاة والعسكريين نموذجًا، دار الجامعة الجديدة، 2020.
- كامل، سامي. النظام القانوني للمسؤولية التأديبية للموظف العام، دار النهضة العربية، القاهرة، 2016.
- الخولي، عادل. ضمانات الموظف العام في مواجهة السلطة التأديبية، المركز القومي للإصدارات القانونية، 2014.

Foreign references:

1. Brown, T. L., & Potoski, M. (2003). *Managing Contract Performance: A Transaction Costs Approach*. *Journal of Policy Analysis and Management*, 22(2), 275–297.
2. Rosenbloom, D. H. (2015). *Public Administration: Understanding Management, Politics, and Law in the Public Sector* (8th ed.). McGraw-Hill Education.
3. Nigro, F. A., & Nigro, L. G. (2006). *Modern Public Administration* (7th ed.). Harcourt Brace College Publishers.
4. Battaglio, R. P. (2015). *Public Human Resource Management: Strategies and Practices in the 21st Century*. SAGE Publications.
5. Harlow, C., & Rawlings, R. (2009). *Law and Administration* (3rd ed.). Cambridge University Press.
6. Peters, B. G. (2010). *The Politics of Bureaucracy: An Introduction to Comparative Public Administration* (6th ed.). Routledge.
7. Loughlin, M. (2003). *The Idea of Public Law*. Oxford University Press.
8. French, R. (2011). *Public Sector Management* (5th ed.). Pearson Education Limited.
9. Berman, E. M., Bowman, J. S., West, J. P., & Van Wart, M. R. (2019). *Human Resource Management in Public Service: Paradoxes, Processes, and Problems* (6th ed.). CQ Press.
10. Turpin, C., & Tomkins, A. (2007). *British Government and the Constitution: Text and Materials* (6th ed.). Cambridge University Press