

**PUBLIC JOINT STOCK COMPANIES BOARD OF DIRECTORS UNDER  
THE JORDANIAN COMPANIES LAW**

Ala'a Kopti

University of Debrecen, Faculty of law, GézaMarton Doctoral School of Legal Studies  
Piac Utca, Debrecen 4024, Hungary

**Abstract**

This study will be based on the analytical descriptive research method for the provisions of the Jordanian Companies Law and its amendments No. (22) Of 1997 ("Companies Law"), with the use of some Jordanian and Arab legislation and judicial decisions related to this subject when available and when necessary.

It aims to assess to what extent the Board of Directors ("BoD") of Jordanian public joint-stock companies are committed to the principles and provisions of the law, by analysing the articles related to BoD stipulated in the Companies Law.

**Keywords:** Companies Law, Jordanian Legislation, Joint-stock companies, Board of Directors.

**1. Introduction**

Economic development emerges as a goal that countries strive to achieve, and such development is based on the joint efforts made by the country and individuals to create and direct investments within development plans.

Joint-stock companies are considered some of the most important tools of economic development in the modern era that they almost solely monopolized the implementation of large industrial and business projects that require large amounts of capital and take considerable time to be implemented.

Joint-stock companies are considered some of the most prominent, most significant, and active types of financial companies in economic life. In addition, given the broad scope of provisions these companies set and the legislator's keenness to organize and control such provisions, the Jordanian Companies Law has allocated more than two thirds of its articles to address the provisions of such companies. In addition, the importance of these companies is clearly visible in economic life as they actively contribute to economic and industrial development. In some cases, these companies carry out the activities that the governments of nations may fail to do.

Public joint-stock companies have prominently featured in the economic life of the country, and that is strongly proven by the continuous expansion of their scope in practice. One of the reasons, to which we can attribute the importance of these companies, may be the clear role they play in mobilizing national and regional savings in the right investment fields. The Large-scale projects realized by these companies undoubtedly require huge capital that the individual is unable to provide.

Furthermore, this can be associated with the nature of public joint-stock companies, as they are the ideal model amongst financial companies in which the financial aspects are seen as the top priority, whether when establishing the companies or when exercising their business. The importance of public joint-stock companies stems essentially from the financial capabilities they employ as a tool for capital accumulation and concentration as well as the special properties of the share such as its little nominal value, enabling the small and top savers to buy the share, trade it with others, which helps the shareholder to sell his stock in case he needs money.

In addition, public joint-stock companies are established by two founders at least, in accordance with the provisions of the Jordanian Companies Law No. (22) of 1977. Upon the recommendation of the Controller, the minister may approve to have one person as the founder of a public joint-stock company or to transfer the ownership of the company to one shareholder if all of its shares are purchased.

With no less than 3 members and no more than 13 members, BoD assumes the management of joint-stock companies as determined by the company's articles of association, and the members of BoD are elected by the company's General Assembly by secret ballot, according to the provisions of the Companies Law and they take on the duties and responsibilities of managing these companies' business for 4 years as of the date of the election. In accordance with the system and procedures for electing BoD, the conditions for nomination, the voting mechanism, and the committees to be appointed from this Board are all determined. Moreover, these conditions and voting mechanism will be examined through what will be presented in this research.

Even though public joint-stock companies play a considerable role in accumulating savers' money, carrying out large-scale projects, and creating an impact on the global and local financial markets, some of these companies, as well as the global and local, have suffered from financial meltdowns, leading to financial collapses that resulted in the loss of trust between these companies and their internal administrative bodies, on one hand, and between companies and their investors on the other hand. This has been the result of companies' financial abuses and manipulations, and their poor management<sup>1</sup>.

This study aims to assess to what extent the BoD of Jordanian public joint-stock companies are committed to the principles and provisions of the law, by analyzing the articles related to BoD stipulated in the Jordanian Companies Law No. 22 of 1997 (the "Companies Law").

## **2. Nature of Public Joint-Stock Companies**

Given the growing importance of these companies, the Jordanian legislator has taken the initiative to elaborate the provisions of such companies to prevent capital from prevailing over the Kingdom's economy and subsequently taking part in the formulation of political and economic decisions. We thus find that the provisions set for the establishment of public joint-stock companies aim to control the business of these companies and redirect it toward serving the national economy and safeguarding the assets of small savers, who find the chance to invest

---

<sup>1</sup> Dr. Muhammad Bahjat Abdullah, A New System For Managing a Public Joint-Stock Company, Dar Annahda Alarabiya, Cairo, p 125.

their savings through buying these companies' shares<sup>2</sup>, since such shares in these companies are of a little value, enabling small savers to buy them, and thus become partners with no liabilities held for the risk of loss that the company may face except to the extent of their shares consisting its capital, which indicates that they are not responsible, nor guarantors of the company's debts and its obligations with their personal funds, but rather by the number of their shares in the capital. Therefore, public joint-stock companies are the ideal model to be aspire to by financial companies, as they are the center for capital accumulation.

### **3. Definition of Public Joint-Stock Companies**

The public joint-stock company was formerly named the public joint-stock company Ltd by the Jordanian legislator in the former Jordanian Companies Law of 1964, where it was defined as "a company that has a business address with a capital that consists of cross-held shares that are offered for initial public offering, where the responsibility of each shareholder is bound to the company's capital." This definition is similar to what was stated in the Syrian law and the Lebanese law, except that these two laws called it the closed company<sup>3</sup>.

As can be seen, this definition contains basic elements that distinguish a joint-stock company from the other companies and are as follows: joint-stock companies have no business address, their capital consists of cross-held shares that are offered to be underwritten in public, and that the responsibility of partners in such companies is limited to the extent of their contribution to its capital.

In the Jordanian Companies Law No. (1) of 1989, the definition was lengthy and different previous definition. The company was named the limited public joint-stock company and these designations are derived from English law.

In the current Companies Law No. (22) of 1997, the public joint-stock company is defined, based on what is stated in Article (90) of the law as "a company that consists of no less than two founders, where they offer their cross-held and transferrable shares in the stock exchanges in accordance with the provisions of this law and any other applicable legislation. In addition, upon the recommendation of the Companies Controller, the minister may approve having one person as the founder of the company. This company derives its name from its objectives, if it pursues such objectives, wherever the phrase (limited public joint-stock company) appears and this company should not be registered under the name of a natural person unless it intends to invest a patent that is legally registered under the name of that person for an unlimited period. However, the company shall terminate such things if its purpose was to carry out a specific work<sup>4</sup>.

This is how limited public joint-stock companies were defined in the Jordanian Companies Law, and it is not different in its essence from the definition contained in most of the legislations concerning the provisions of joint-stock companies. Nonetheless, the new Jordanian law has

---

<sup>2</sup>Prof. Fawzi Mohammad Sami, Commercial Companies, Amman, Jordan, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 258.

<sup>3</sup>The aforementioned definition is also similar to the definition of this company stated in the Egyptian Law No. (159) of 1981 and the Iraqi Companies Law No. (36) of 1983.

<sup>4</sup>Prof. Fawzi Mohammad Sami, Commercial Companies, Amman, Jordan, Dar al-Thaqafa lilNashrwal-Tawzi', 2011), 7th Edition, 2014, p. 260.

added a new paragraph that granted the Minister the right to approve the establishment of a joint-stock company that is founded by one person.

#### **4. Characters of a Public Joint-Stock Company**

A public joint-stock company has many characteristics, including:

**First:** the financial nature is a solid foundation in its composition and activity as well whereas the intuit personae basis is not given any importance in such companies. Moreover, the status of the founders may be of much importance upon incorporation, as the reputation enjoyed by these founders has a great impact when underwriting the company's shares in public upon incorporation<sup>5</sup>.

**Second:** a public joint-stock company has no business address since this is associated with intuit personae, and this is the case for general partnerships that are registered under the "partner and partners". Given that the financial nature is the focus of joint-stock companies and not intuit personae basis, the company's financial capabilities are what draws the attention of those who deal with the company, so the larger the company's capital is, the more the company becomes a source of trust and reassurance for others. For such reasons, the joint-stock company shall have a business name that is derived from its purposes stated in the company's contract and not from the names of the partners<sup>6</sup>.

**Third:** The partner's liability is limited to the extent of their contribution to the company's capital. Therefore, if the company's debts consume most of its money, the partner in the joint-stock company's loss shall not exceed the amount he paid for the shares has underwritten in public or purchased as the joint-stock company's financial liabilities are independent compared to the partners' financial liabilities and are what solely guarantees the rights of the company's creditors as explained by Article (91) of the Companies Law that states: "The financial liability of the public joint-stock company is separate from the financial liability of each shareholder, and the company, with its assets and money, shall be responsible for the debts and obligations arising there from, and the shareholder shall bear no responsibility towards the company for those debts and obligations, except to the extent of the shares owned by him in the company." We further add that the partner in the joint-stock company does not acquire the status of a merchant because of his contribution to the company. Based on that, we find proves that the company is similar to a limited liability company, in terms of its independence and its financial liability and the fact that the shareholder does not acquire the status of a trader<sup>7</sup>.

**Fourth:** a joint-stock company acquires legal personality after completing the procedures of incorporation and registering them in the Companies Register. After that, the company shall be considered a Jordanian company whose headquarter is in Jordan as contained in Article (4) of the Companies Law No. (22) of 1997 that states "The company shall be established and registered in the Hashemite Kingdom of Jordan in accordance with this law. After incorporation and

---

<sup>5</sup>Mohammad Hammouri, Protection of the Minority of Shareholders or Partners in Private Joint-Stock Companies, Al-Tawfiq Press, 1987. edition.

<sup>6</sup>Murtada Nasser Nasrallah, Business Companies, Al-Irshad Press, Baghdad, 1969, p. 131.

<sup>7</sup>Prof. Aziz Al-Agaili, Illustration of Commercial Law, Dar al-Thaqafa lilNashr, Amman 1998.

registration, every company shall acquire the Jordanian legal personality, with its headquarter placed in the Hashemite Kingdom of Jordan".

**Fifth:** the capital of public joint-stock companies is fixed and limited with no less than five hundred thousand Jordanian dinars, divided into equal shares, with only one Jordanian dinar per share. Moreover, to say that the company's capital is fixed does not mean that it cannot be increased or decreased, but that can rather be done by following certain procedures stipulated by the law.

The new Jordanian law has called it the authorized capital and stated that the subscribed capital upon incorporation must not be less than one hundred thousand dinars or 20% of the authorized capital, whichever one is greater, and this is what was stipulated in Article no. (95) of the Companies Law<sup>8</sup>.

**Sixth:** it is the only public joint-stock company that was required to have a BoD for managing its business. BoD members are elected from those in the General Assembly, and the number of members must not be less than three and not more than thirteen as determined by the company's articles of association.

**Seventh:** The Jordanian legislator has imposed a law that stated the following: in the event of excising certain business, a public joint-stock company should be the one to carry out this business provided it is carried out by those engaged in the insurance business and banks in the public joint-stock companies as required by article (93) of the Jordanian Companies Law. The article stated the following: "only the following public joint-stock companies that are established and registered in accordance with the provisions of this law are permitted to exercise any kind of this business."

- a) Banks, financial companies, and insurance of all kinds.
- b) Franchise companies.

## **5. The Legal Nature of the Public Joint-Stock Company**

It is very easy to know identify the legal nature of general partnerships as is founded on a contractual basis, where the contract between the partners is considered the basis on which the company is grounded and is what regulates the relationship between the partners and the management of the company while it is engaging in its economic activities.

In the case of financial companies, especially the joint-stock company, the legal nature of such company was called into question and is still a matter of debate to this day business-wise. Therefore, in order to know the legal nature of the joint-stock company, it is necessary to clarify the legal basis for this company in its formation.

The legal basis of the company can be summarized in two theories, of which the first is the contract theory and the second is the institution or system theory.

---

8 Prof. Latif Jaberkomani, Al-Wajeez: Illustration for The Jordanian Companies Law, Amman, 1994.

## **The Contract Theory**

### **Definition**

Most of the Jurisprudence views have regarded that the public joint-stock company is the outcome of a contract, according to which each shareholder is obligated to provide an amount of money to buy one or more shares. This share grants the shareholder the right to split the profits achieved by the company and to share the remaining of its liquidated money with others. This theory is rooted and feeds into the provisions of the French law. However, a substantial part of jurisprudence still adopts the idea of contract theory in the company. This company's contract is like any other contract. For this contract to be concluded, it requires the consent and eligibility of the partners and must be free of any defects with a legitimate reason to conclude it<sup>9</sup>.

According to the Jordanian legislator, we can see that the Jordanian Civil Code has dedicated a chapter to address the provisions of the company and its types, between articles (582-635), where it was stated in article (582) that "the company represents a contract whereby two or more persons are obligated to contribute to a financial project, by providing a share of money or business to invest in that project and split what arises thereof from losses and profits"<sup>10</sup>.

### **Parties of the Contract**

There were discrepancies in the jurisprudence opinions about the parties of the contract in a public joint-stock company, as some of them indicate that the company represents a contract that is concluded between the underwriters and is formed when the shareholders underwrite the company's shares and comply with articles of association, and each underwriter has an obligation towards the other underwriter under an agreement, by which they are tied to one another.

In this regard, the criticism directed at this opinion is on how the underwriters agree amongst themselves on a contract, by which they become obligated towards each other without prior knowledge between them. Moreover, can the founders be considered agents for the underwriters in the case of exchanging management between one another?

The researcher believes that this opinion is weak from a legal point of view for two reasons; the first is that the legislator did not regard having prior knowledge between the two parties as one of the pillars of the contract. As for the second reason, it lies in the fact that the underwriters agree to the contract and take part in the establishment of the company after a prior agreement between the founders, which means that the contract formed by the underwriters is not the basis of the company.

As for the second opinion, it regards the company's contract as a contract that is formed between the underwriters and the founders and is concluded when the underwriter is informed of the acceptance of his offer. This view emphasizes the bilateral nature of the contract between the underwriters and the founders, who are obligated to pursue the purpose behind this company,

---

<sup>9</sup>Prof. Samih Al-Qalyubi, Business Companies, Part 1, 3rd Edition, Dar Al-Nahda Al-Arabiya, Cairo, 1929, p. 23 and et seq.

<sup>10</sup>Prof. Ibrahim Al-Amoush, Jordanian Companies Law, Amman, 1994.

which means that the joint-stock company is a continuation of the partnership that was forged between the founders and the underwriters<sup>11</sup>.

For the researcher, the question that arises is why are the founders alone responsible for the failure of the company's incorporation if the company is the result of the underwriters' partnership with the founders?

Here comes the last view on this. The third view considers the joint-stock company to be the result of a contract that is concluded between the founders themselves, by which the legal basis for the company is the agreement that was made between the founders. The purpose of this agreement is accordingly to take the necessary procedures for the establishment of the company as the agreement between the founders results in the formation of a group that establishes a company that is similar to the company (a joint-stock company) to be registered later<sup>12</sup>.

### **The Consequences of Adopting the Contract Theory**

1) When the shareholder underwrites the shares in public, he is considered to have contributed to the establishment of the company, as he forfeits his ownership rights in the assets he provides, and in return, he acquires rights that are based on the contract, and which cannot be altered or amended against his will and consent.

2) The principle of equality between shareholders. All contracting parties, who are the shareholders, are equal amongst one other and are treated equally as the company is based on the contract, under which their will is expressed, and their efforts are united to achieve a common purpose. This can only be achieved if all shareholders are treated on an equal basis (the Jordanian legislator adopted this principle when stipulating that the company's shares shall be equal in terms of rights and duties".

3) The shareholder is not obligated to pay to the company what exceeds the stipulated in the company's articles of association. As stated in article (91) of the Jordanian Companies Law, "The shareholder shall hold no liabilities towards the company except to the extent of his shares in the company".

4) The general assembly consisting of all shareholders is deemed the supreme authority of the company that manages the company on behalf of it, through a Board of directors, whose members are elected from amongst the shareholders.

5) After joint approval of the partners in the company, the legal personality of the company is formed, and the registration of the company or the issuance of a certificate of incorporation shall only be considered a procedure to demonstrate the personality of the company, which was already formed before the issuance of its certificate of incorporation.

In conclusion, the contract theory regards the contract as the legal basis for the joint-stock company, and therefore its certificate of incorporation is not valid unless the basic elements of

---

11 Prof. Fawzi Mohammad Sami, Business Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 269.

12 Prof. Fawzi Mohammad Sami, Business Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 270.

the contract and its validity are proven to be present so that the purpose of the company's contract is to split the profits and bear the resulted losses. In this regard, many Arab laws have taken this principle<sup>13</sup>.

### **The Institutional Theory**

This theory is primarily based on achieving the collective interest of all. This theory came into light due to the diminution of free will principle against the intervention of the state, through its legislation, in regulating economic institutions to achieve the public interest of society. This idea is depicted in the fact that the company's interest goes beyond the limitations of the contract as it is inclusive of the interests of all people, who are interested in pursuing the success of the company, such as the interest of creditors, the employees of the company as well as the holders of bonds that are issued by the company, provided that the company's objectives should not be inconsistent with the country's economic development plan, where the company is considered a basis for achieving the national interest. With that being said, we find that the business of the joint-stock company concerning the national economy is why the developed legislative organization was created to make these companies a tool by which the goals for achieving economic benefit can be realized.

Accordingly, the company, based on the theory of institution or organization, falls outside the scope of the contract since the contract reflects the personal relationships between one party and another. However, in institutional theory, relationships of objective and organizational nature, and therefore it is said that the company is established by the approval of the concerned of that according to legal regulation and that such company aims to achieve the interest of individuals and states, indicating that it is a private institution of a similar nature as the public institutions, which must continue to serve the interest of the community<sup>14</sup>.

The Jordanian law did not specifically choose what theory to adopt between the contract theory and the intuitional theory, but we can still say that it adopted the contract theory when defining the company since it revolves around the joint-stock company, where the contract is the basis on which the company is incorporated and is subject to the general conditions thereof in accordance with the provisions of the contract herein.

Nonetheless, when it comes to the company's business, we will notice that the legislator gives most of the members and the company's bodies the authority to take the various decisions necessary for the company to sustain its business considering the specific articles regulating the company's business and its flow in a manner consistent with the supreme economic interest.

The researcher believes that the Jordanian legislator adopts the theory of the contract when it comes to the composition and incorporation of the company. As for the institutional theory, he adopts it when the company's practice of business is intended to be carried out considering the rules regulating its business that aim to protect other parties and the national economy.

---

13 Prof. Abd al-Hamid al-Shawarbi, *Encyclopedia of Business Companies*, Manshet al-Maaref Press, Alexandria, 1991, p. 47.

14 Prof. Adnan Ahmed Al-Azzawi, *Commercial Law: Business Companies*, Baghdad, 1989, p. 127 and et seq.



## **6. Incorporation of Public Joint-Stock Companies**

For a joint-stock to be incorporated, several procedures required by law must be followed. These procedures are carried out by those, whose goal is to incorporate a company with a new legal personality independent of its constituent members. There is no requirement that the founder must be a natural person and it is possible in this case that some of the founders may be legal persons<sup>15</sup>.

### **The Founders**

#### **Introducing the Founders**

They refer to those who initiate the idea of establishing a company and strive to carry out the procedures to do so. They also collectively agree to incorporate this company, in which this agreement is perceived as the contract that constitutes the company to be incorporated and therefore it is referred to as the Articles of Association (“AoA”). It is not required that the founder should be a natural person since all or some of the founders may be legal persons.

#### **The Requirements the founder must meet**

1) The founder, who is a party in the Memorandum of Association (“MoA”), shall have the full capacity to act since the establishment of the company is deemed, in accordance with the Jordanian Law, as one of the works that bring gains and losses as the founder herein may bear civil or criminal liability when the company’s incorporation fails.

Therefore, the founder must have full authority. It is also worth mentioning that the authorized minor can take the status of a founder as he is seen as an adult within the limits of the work he is authorized to carry out in the case the establishment of the company is included in the works that fall under the permissible limits established for him. Nonetheless, he may not carry out such work if the work goes beyond the permissible limits.

2) There are some laws that stipulated that the founder shall not have been sentenced to a criminal penalty, in line with what the law requires about being a member of BoD, as what was stated in the Egyptian law. This is what the Jordanian legislator did not take into consideration in such case.

3) Each founder must be a partner in the company to be incorporated, as the laws require that the founders underwrite shares equal to a certain percentage of the company’s capital, and this percentage is determined in accordance with the company’s AoA. By that, the legislator intends to make sure that the founders are willing to participate in the company to be incorporated and thus push them into working towards realizing the project for the establishment of the company. This is what was stipulated in Article (99) of the Companies Law, which states the following:

"A- Upon signing the public joint-stock company's MoA and AoA, the founders shall cover the entire value of their underwritten shares and provide the Controller with proof of that, provided

---

<sup>15</sup>Prof. Ahmed Ibrahim Bassam, Principles of Commercial Law, Part 1, Baghdad, 1961, p. 285.

that the percentage of shares underwritten by the founders in banks and financial companies shall not exceed 50% of the authorized capital and that the number of founders shall not be less than fifty people.

B- Upon incorporation, the shares of the founder(s) in the public joint-stock company should not exceed 75% of the authorized capital. The relevant founder or the founders' committee shall thus under write the remaining shares in public as permitted by the applicable Securities Act. However, the partners in the public joint-stock companies that were once limited liability companies, companies limited by shares or private joint-stock companies, may cover the full difference in the entire authorized capital of the company, or to underwrite the remaining shares in public or private, in accordance with the procedures stipulated in the Securities Act.

4) The Jordanian law did not stipulate that the shareholder should have Jordanian citizenship. But it allowed that the founder of the joint-stock company may be one person, but this does not mean it is allowed to establish a joint-stock company with one-person since the allowed minimum number of partners is there. However, in such cases, the company consists of a large number of partners<sup>16</sup>.

### **The Incorporation Procedures**

The procedures taken for incorporating a public joint-stock company, in accordance with the Companies Law, are as follows:

#### **The Committee of Founders**

The number of founders may be potentially large making it difficult for all of them to follow the procedures for incorporating the company. As a result, the previous Companies Law stipulated that the founders should elect a committee among themselves, called the founders' committee, with no less than two members and no more than five, to take all the necessary procedures for the incorporation of the company and turning it into an actual entity. The work of this committee ends once the members of the first BoD of the company are elected. However, the new Companies Law has not specified the composition, number, and location of the committee, but has stated that in Article (92) therein that the request to obtain the approval of the company's incorporation shall be submitted to the Controller. The request includes the names of the committee's founders. This indicates that it is necessary to elect a committee of founders.

#### **Submitting an Application for Incorporation**

The application for incorporation shall be submitted by the incorporation committee to the Companies Controller to approve the incorporation of the company and its registration in the Companies Register. The following shall be attached to the application:

##### **1- MoA of the Company**

This contract includes:

\_\_\_\_\_

- a) The name of the company: the company has a business name and not a commercial address, provided that its name shall be derived from the company's objectives, with "a limited public joint-stock company" phrase added to the name.
- b) The headquarter: it is incorporated and registered in Jordan, with its headquarter based in Jordan.
- c) The objectives of the company.
- d) The names of the company's founders, their nationalities, and the selected addresses to which the notices will be sent as well as and the number of underwritten shares.
- c) The capital of the company: the capital shall not be less than five hundred thousand Jordanian dinars and is called "the authorized capital" by the Jordanian legislator. This capital is divided into shares of equal value, and the value of each share is one dinar.
- h) A statement of the company's in-kind advances, if any, and their value.

## **2- The Company's Articles of Association (AoA):**

The content herein is divided according to the forms utilized in developing articles and chapters of AoA, and the statements stated herein cover all the provisions, information, and the bodies in the company and the way the company manages and exercises its business from start to end. Thus, it can be said that the company's system is suitable to be a working guide and to be a source of information about the company for the founders, those in charge of managing the company's affairs, shareholders and others<sup>17</sup>.

## **3- The Names of the Company's Founders**

### **4- The Names of the Founders of the Committee That Is Handling the Incorporation**

All founders must sign the Articles of Association and the company's contract.

After the Companies Controller receives the application for incorporation, and within thirty days from the date of submitting the application, the minister is authorized to accept or reject the registration of the company, and decision of (the Minister of Industry and Trade) is issued within thirty days as of the date of the Controller's placement. In the case of the expiration of the 30-day period and the non-issuance of a decision by the Chairman, about rejecting or approving this, his silence in such case is regarded as acceptance. Nonetheless, in the case of a negative decision issued by him, the company's founders, represented by the committee of founders, shall reserve the right to appeal against the decision of the Chairman to the Court of Justice. Prior to the approval on incorporation, the minister is also entitled to make amendments to the company's contract and articles of association<sup>18</sup>.

---

<sup>17</sup>Prof. Latif JaberKomani, Al-Wajeez: Illustration for the Jordanian Companies Law, Dar Al-Thaqafa, 1994.

<sup>18</sup>Hassan Habib Hawa, Companies Law in Jordan, and Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 287.

### **Issuance of Certificate of Incorporation**

Once the minister's approval is issued for the incorporation of the company, the Companies Controller shall inform the committee of founders of that. Upon the receipt of legal fees from them, the Controller shall register the company in the Companies Register and issue a certificate with the number and date of registration. As of the date of registration, the company is considered a Jordanian independent entity with its headquarter based in the Hashemite Kingdom of Jordan.

The Controller, in such case, shall publish an announcement on the incorporation of the company in the Official Gazette. However, the issuance of the registration certificate and the company's having acquired a legal personality does not mean that it can exercise its business as a company, and these are initial procedures for the incorporation and there are other procedures that must be followed, so the company can be considered fully incorporated.

After the approval of the incorporation comes the stage of forming the company's capital, and this is done by under writing the shares first and then having a meeting with the constituent General Assembly followed by electing the members of BoD and the company's auditors. With that being said, the company has now completed all its requirements and the final incorporation of the company is announced.

From there, the Controller determines that the company is qualified to begin its business, and then comes the final stage of electing the administrative institutions and subsequently allowing the company to perform its activities<sup>19</sup>.

### **7. BoD of Public Joint-Stock Companies & Its Composition**

A joint-stock company has several bodies, some of which are in charge of directly managing it, and some of those who oversee the management of the company, and others whose mission is to follow up on the proper functioning of the management. These bodies represent the General Assembly, under which all of the shareholders fall. Usually, one meeting is held annually and is referred to as the ordinary General Assembly meeting, while other meetings are held during the year and are known as the extraordinary General Assembly meetings. The function of this body is to oversee the management of the company. As for the second body that is BoD, its members are elected by the General Assembly and its function falls in the scope of managing the actual company. The third body is represented by the auditor, who audits and reviews the company's accounts.

Falls under the joint-stock companies many shareholders, and their participation in the management of the company is bound to happen for the development and the implementation of its business. In addition, it is often impossible to happen, and thus here the law undertakes the allocation of the company's management affairs in the same way that the systems of government in democratic countries do. BoD constitutes the link between the capital providers and those who use the capital to create value for the company as the performance of the members of BoD is considered the driving force of the company.

---

19 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 287.

As for the weaknesses, they are seen in the constant formal and in effective role played by the majority of BoD members, which does not contribute to the development of strategic plans, as many of BoD members are satisfied with only attending the meetings and listening to the views of the executive authorities who are the daily decision-makers on a daily basis, without having an important role in developing the company's strategy and plans and identifying alternatives to overcome such negative circumstances experienced by the company<sup>20</sup>. The BoD of a joint-stock company represents the main and effective tool and is also the planner and implementer of the company's business. Let alone it is responsible for the planning and implementation of its business as well as carrying out all of its activities<sup>21</sup>.

BoD is considered the main body in the joint-stock company and its main executive. It is also responsible for making the necessary decisions to achieve the smooth functioning of the company's business as well as actualizing its purposes and objectives. It is indeed that the company's AoA outline the method of forming BoD, but its laws have, however, set binding rules in this regard, which makes the laws vary in terms of handling the formation process for the first BoD or the subsequent Boards as well as the method of appointing the members of BoD or the competent body concerned with their appointment.

## **Composition of BoD**

### **1<sup>st</sup> Meeting of General Assembly**

After having fully underwritten the company's shares, the committee of founders must send an invitation to all shareholders to attend the "Constituent General Assembly Meeting" (the ordinary General Assembly meeting). This invitation must be sent within sixty days as of the date of the company's incorporation. If the committee of founders do not send an invitation during the specified period, the Companies Controller shall carry out this task at the expense of the company, provided that the invitation shall be sent, in both cases, fourteen days before the specified date of the meeting at least.

If the shareholders who have underwritten the company's shares, and the founders who hold more than half of the underwritten shares have attended the meeting, then the quorum of the meeting is considered, in that case, legal and valid. However, in the event of the absence of the quorum, the committee of founders shall send an invitation for a second meeting that will be held within at least three days as of the date of the first meeting. In addition, it shall publish an announcement on that in two daily local newspapers at least 3 days prior to the date of the meeting. Moreover, the second meeting shall be considered legal regardless of the shares represented herein, and in which the committee of founders shall review its agenda and accordingly elect the members of the first BoD<sup>22</sup>.

---

20Prof. Ena'am Mohsen Zoelef, "The Role of Strategic Analysis of The Dimensions of Institutional Control Environment in Sustaining The Organization and Preventing Financial Crises",

21Prof. Hani Salah Sari Al-Deen, Private Business Companies in Egyptian Law, 2nd Edition, no publisher, 2002, p. 22.

22Prof. Aziz Al-Akaili, Illustration of Commercial Law Part IV, Commercial Companies, Amman, 1998, p. 286.

### **The Procedures for Electing Members of BoD**

Members of the first BoD are elected by secret ballot as follows:

- a) All shareholders of the company, including the founders and underwriters, whether they are natural or legal persons (other than public legal persons), are entitled to be nominated for membership BoD.
- b) After choosing the nominees, the election process takes place, and each shareholder is entitled to elect himself, and if he is authorized to attend on behalf of another shareholder, he may in that case elect that shareholder by proxy. The attendees must elect from those among the candidates to complete the required number of members of BoD, in accordance with what is stipulated in the company's AoA and within the legally specified number. After the votes are counted, the result is announced and whoever gets the majority of votes shall win. If the number of candidates is ten and the required number is seven, then the first seven people who have won most of the votes shall become the members of BoD.
- c) The person who is elected to a member of BoD must announce his acceptance or refusal of membership within ten days from as of the date of being notified of the election result.
- d) If one of the members of BoD is a legal person (other than the relevant general legal persons), he shall nominate a natural person, within ten days as of the date of the election, who can fulfill the conditions for membership to be represented in BoD.
- e) The term of membership of BoD shall be four years as of the date on which the member was elected. The law did not state here in how many times a person can be re-elected as a member of BoD. Nonetheless, the company's AoA may stipulate that in such case and, as a result, the statement mentioned herein must be complied with.
- f) After the election of its members and within fifteen days as of the date of the General Assembly meeting, BoD shall provide the Companies Controller with a copy of the minutes of that meeting, coupled with the final decision on the incorporation of the company as well as the necessary documents and data. With this, all the procedures for the incorporation of the company are now completed<sup>23</sup>.

## **8. Conditions of Membership in BoD**

### **The Eligibility Condition**

Not only did the legislator stipulate that the person selected for membership in the joint-stock company must attain the age of majority, but also the Companies Law stipulated in Article (147/A) that the selected person must not be less than twenty-one years old.

The logic behind this condition may lie in the availability of some experience and knowledge of sound management methods. However, the law did not stipulate that the member of BoD should be male or female or have Jordanian nationality. In addition, the Jordanian law also stipulated

---

<sup>23</sup>Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 429.

that BoD must not consist of members who are employees of the government or any other public institution.

### **The Condition of Holding Shares**

Article (133/a) of the Jordanian Companies Law stipulates that the company's AoA must specify the number of shares that a person is required to own to be nominated for membership in BoD and retain this membership, provided that these shares are not pawned, encumbered, or restrained under another name, restraining the absolute disposal of such. The constituent shares that cannot be disposed of under Article (100) of the Companies Law are excluded from this condition, as stated in this article:

"The AoA of the public joint-stock company determines the number of shares that a person is required to own in the company to be nominated for membership in BoD and retain that membership. However, it is required that these shares must not be pawned, encumbered, or restrained under another name, restraining the absolute disposal of them. The registered share stipulated in Article (100) is excluded herein, which states that the constituent shares may not be disposed of.

In light of this, it may be said that approval of the Jordanian legislator is bound by the condition stipulating that membership of BoD in a public-joint stock company requires the candidate to be a shareholder, who owns a certain number of shares, and that a member of BoD of a public joint-stock company shall bear responsibility for his actions as an ex officio in BoD. The legislator stipulated that the member must own a certain number of shares as a guarantee to the General Assembly for this liability. Accordingly, the name "guarantee shares" was coined by jurists<sup>24</sup>.

### **Membership is only given for a Specific Number of BoDs**

It was authorized under Paragraph (a) of Article (146) of the Companies Law that a person may not be a member of BoD in more than three public joint-stock companies at one time in their personal capacity, nor be a representative of a legal person for BoD in more than three joint-stock companies.

In addition, a person may not, in all cases, be a member of BoD in more than five joint-stock companies and that in his personal capacity in some of these companies while be a representative of a legal person in other ones, which means that any membership rights he obtains after that for a BoD of any company are considered void by virtue of law unless he submits his letter of resignation from the membership in the event that he desires to do so, within two weeks as of the date of the election of a new membership. This is intended to provide an opportunity for a member of BoD in a public joint-stock company to fully carry out the duties of his membership, which makes this member prioritize the interest of one company over another, due to the difficulty one person may face in terms of reconciling the interests of several companies at the

---

24Prof. Fawzi Sami, Commercial Companies, General & Specific Provisions - "A Comparative Study", 1st Edition, Dar al-Thaqafa lilNashrwal-Tawzi', Amman, 1999, p. 482.

same time. The Jordanian legislator, therefore, was determined to specify the number of BoDs of joint-stock companies, in which a member may work.

**Membership of BoD shall not be accompanied with the job of a minister or a public job.**

It is not permissible for those with a public job to obtain a membership for a BoD of a joint-stock company in their current position as Article (148/a) stipulates that no one in a public job shall be a member of BoD of any public joint-stock company unless he is a representative of the government or any official public institution or is a public legal person. A public job, as defined in Article (76) of the Jordanian constitution, refers to "every job by which the occupier receives a salary from public funds, and this includes municipal departments<sup>25</sup>." The logic behind this is to eliminate the impact that such companies have on these people in terms of using their influence for achieving the benefit of the company, of which these people are members of its BoD in addition to the collision of the employee's work with his activity in the company, of which he is a member of its BoD. This would give some priority to this last activity, making him dedicate his work and its means for his benefit<sup>26</sup>.

**Memberships of BoD of two similar companies shall not be combined**

Paragraph (b) of Article (148) of the Companies Law has stipulated that it is not allowed to combine the membership for BoD of two companies that overlap in terms of their objectives or are competitors to one another in their business. This paragraph explains the two cases, of which the first states that a member of BoD of a public joint-stock company and the General Manager may not be members of a BoD of a company that is similar to a company in which they are a member of its BoD, or a company that is similar in its purposes and is a competitor to that company in terms of its business, and they may not do any work that competes with that business, as its body demonstrates a prohibition for the member of BoD or the General Manager. Moreover, it is noted that the paragraph has revolved around the members of BoD and the General Manager. It is likely that the logic behind that lies in the impossibility of reconciling the interests of the two companies and the inability of a person to combine between the interests of two similar or identical companies, whether in terms of their business or objectives. As for the second case, it is not allowed for a member of BoD and a General Manager of the company to engage in any activity or work, in which they compete with the business and the activity of the joint-stock company, of which they are members and the reason behind this lie in the fact that the member or manager is inevitably fully aware of everything related to the company's business and future. Therefore, they are not allowed to engage in a competing activity with the aforementioned company. So, to prevent such suspicions, they are prohibited to do such thing since carrying out this activity will inevitably lead to the exploitation of the information, they are aware of and harnessing that in a way that serves them when competing with the company, of which they are members of its BoD<sup>27</sup>.

---

<sup>25</sup>The Jordanian Constitution of 1952.

<sup>26</sup> Prof. Aziz Al-Akaili, Illustration of the Jordanian Commercial Law, Part IV, Dar al-Thaqafa lil Nashrwal-Tawzi', Jordan, 1998.

<sup>27</sup> Hamdi Mahmoud Barood, "Membership of BoD in a Joint-Stock Company (A Study in the Traditional and Modern Composition of a Joint-Stock Company in the Light of Governance Rules)" (2010) 12 Journal of Al-Azhar University in Gaza 2, p. 25.



**The candidate must not be convicted of felonies or misdemeanors against honor.**

The various legislations almost unanimously agree that the members of a BoD of a public joint-stock company shall have no criminal records and this requirement for non-conviction is called the requirement of integrity as it represents qualities that guarantee the integrity of a member of BoD of a public joint-stock company. The Companies Law stipulated in Article (134) that whoever is nominated for membership of BoD in a public joint-stock company must not have been convicted by a competent court of a criminal penalty or a misdemeanor penalty against honor or ethics, such as theft, bribery, embezzlement, forgery, breach of trust, false testimony, or any other crime against morals and public ethics and not have gone bankrupt unless he has been rehabilitated or has been sentenced to any of the penalties stipulated in Article (278) of the Companies Law. Not only did the legislator stipulate that natural persons must not be convicted of crimes, but also the representative of the legal person of BoD in the public joint-stock company<sup>28</sup>.

**9. Meetings of BoD in Public Joint-Stock Companies**

The Companies Law has outlined the procedures for BoD's meetings, and this does not mean that the company's AoA can't set out the organizational aspects for BoD's meetings.

Upon the first election of its members, BoD has to hold a meeting and a Chairman and a Vice-Chairman must be elected by secret ballot from amongst the members. Moreover, one or more people, who have the authority to sign on behalf of the company, individually or collectively, must be elected, within the limits of their authorities. BoD must also inform the Companies Controller of the decisions that were made at this meeting within seven days as of the date of issuance of those decisions. It is also noted that the law did not specify a date on which this first meeting should be held. The researcher believes that the legislator should have specified a period, during which BoD would hold a meeting after its members were elected by the General Assembly in the first meeting. We will indicate herein the powers and duties of each of those, who were elected at the first meeting of BoD<sup>29</sup>.

**a) The Chairman of the Company's BoD**

Paragraph (a) of Article (152) of the Jordanian Companies Law states the following, "The Chairman of BoD is considered the head of public joint-stock and who represents it before third parties and all bodies, including the competent judicial authorities. In accordance with the provisions of this law and the regulations issued pursuant thereto and the other applicable regulations in the company. Moreover, the Chairman shall implement the decisions of BoD, in cooperation with the executive body of the company"<sup>30</sup>.

---

28 Prof. Aziz Al-Akaili, Illustration of The Commercial Law, Part IV, Commercial Companies, Amman, 1998.

29 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 439.

30 See the decision of the Jordanian Court of Cassation in its legal capacity no. 3150/2002 (a five-member jury) dated 20/1/2003. The publications of Adalah Center, in which the decision stated that "if the defendant company is a public joint-stock company and its Chairman of BoD is who signed the agreement with the plaintiff, he will be considered to have exercised his legal powers in accordance with Article a/152 of the Companies Law and the signing of the

Paragraph (b) has permitted the Chairman to take on the company's side businesses, if he is not a full-time Chairman of BoD in another public joint-stock company or a General Manager of any other joint-stock company. Otherwise, in this case, the approval of two-thirds of BoD must be obtained.

Is it permissible to dismiss the Chairman of BoD? the general rule states that who has the right to appoint a Chairman has the right to dismiss him as well. Therefore, BoD may decide to dismiss the Chairman and appoint a new one. This dismissal must be justified by law such as mismanagement of the company, the failure to manage the company, fraud, or forgery<sup>31</sup>.

#### **b) Vice-Chairman of BoD**

The Vice-Chairman shall preside over the sessions in the absence of the Chairman, and in the event of the dismissal or resignation of the Chairman or his inability to carry out his duties due to a legal or financial impediment, so the Vice-Chairman, in this case, performs the duties of the Chairman until the election of a new Chairman. The Vice-Chairman may be appointed as a General Manager of the company. In this case, the appointment is finalized by a two-thirds majority of the BoD members without the participation of the Vice-Chairman in voting. This is what was stated in Paragraph (e) of Article (152) of the Jordanian Companies Law.

#### **c) The Authorized Member**

BoD may elect one or more members from among the BoD members, who have the right to sign on behalf of the company, within the limits of the powers delegated to them. The authorized member is called the managing director and is delegated by BoD to carry out certain tasks.

#### **d) The General Manager of the Company**

Paragraph (a) of Article (153) of the Jordanian Companies Law that a General Manager should be appointed for the company, if he is appointed by a decision of BoD and to work under the supervision of BoD. BoD may terminate the services of the appointed General Manager. In all cases, BoD must inform the Companies Controller and Amman Financial Market of the decision of BoD within ten days as of the date of its meeting. Furthermore, the Chairman of BoD or any of the BoD members may be appointed as a General Manager of the company by a decision reached by the two-thirds of the majority of BoD members, provided that the concerned person (to be voted) does not participate in the voting.

#### **e) The Secretary of BoD**

BoD shall appoint a person to assume the duties assigned to the secretary of BoD even if it is required that the concerned is from those amongst the members of BoD. The duties of the secretary are summarized in organizing the BoD's meetings, preparing the agenda for the meetings, and taking the session minutes and decisions, and writing them down in a specific

---

agreement is regarded as one of his designated powers and this agreement shall be binding on the company against third parties who deal with the company in good faith".

31 Prof. Aziz Al-Akaili, Illustration of Commercial Law, Part IV, Commercial Companies, Amman, 1998.

register, in consecutive pages arranged sequentially. Those minutes must be signed by the Chairman and members of BoD, who attended the meeting.

### **Other Meetings of BoD**

The company's AoA may and may not specify the minimum number of meetings that must be held throughout the year by the company's BoD and in the case of the latter, BoD takes the lead here to hold these meetings whenever necessary.

Jordanian law did not allow the BoD to do such things and instead set a minimum number for the BoD's meetings per year, provided that the number of BoD's meetings shall not be less than six meetings throughout the year and that no more than two months shall go by without holding a BoD meeting, and the Controller shall be sent a copy of the invitation and meeting<sup>32</sup>.

### **The manner of sending an Invitation for BoD Meeting**

Article (155) of the Companies Law has detailed how to send an invitation for the meetings of BoD as well as the place in which the meeting shall be held and mechanism of voting and making decisions and are as follows:

- 1) BoD shall hold a meeting based on an invitation sent to the members of BoD by the Chairman or Vice-Chairman if the Chairman or the Vice-Chairman sees the need to send an invitation for a BoD meeting.
- 2) BoD shall hold a meeting based on a written request submitted to the Chairman of BoD by at least a quarter of BoD members. In this written request, the members must indicate their reasons for holding the meeting. In this case, the Chairman or the Vice-Chairman shall send the written invitation to all members of BoD, detailing the date and place of the meeting. However, in the event that the Chairman or the Vice-Chairman does not send an invitation within seven days as of the date of receiving the request, the members who submitted the request are entitled to send an invitation to BoD to hold a meeting<sup>33</sup>.

### **Quorum & voting of BoD**

The Jordanian shall specify the quorum for the meetings of BoD with the attendance of half of its members and the BoD members have to attend the meeting when receiving the invitation for the meeting unless they have a legitimate excuse for their absence. However, in the event that a member is constantly absent from the BoD's meetings for six consecutive months, even if he had a legitimate excuse for that, he shall lose his membership of BoD. Furthermore, if there was no legitimate excuse for his absence, his absence from four sessions, in this case, shall be enough to terminate his membership by a decision issued by BoD and notified to the Controller.

The law does not permit the member to be a representative of a third party or a member by attending and voting in the meeting of BoD and has also refrained the member from voting in correspondence as expressly stated in paragraph (c) of Article (155), in which it was stated that:

---

32 Latif JaberKomani, Al-Wajeez: Illustration for the Jordanian Companies Law, Amman, 1994, p.135, item 80.

33 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 446

“Voting on the decisions of the company’s BoD is done individually and the member himself shall vote and no delegation or correspondence or any indirect way of voting is allowed”<sup>34</sup>.

It is also worth mentioning that the content did not address the issue of delegating others to attend, but has rather addressed the issue of voting without attendance.

The researcher believes that the intention of the legislator was not to authorize the delegation of others to attend as the election of members of BoD is carried out based on several criteria. Including the personal criterion, which means that the elected member has the competence and experience in this field and is privy to the company's secrets, and that invalidates the authorization of others to attend these meetings.

Moreover, during most of BoD's meetings, decisions concerning the management of the company are made based on the votes of BoD members, to which the law requires that the vote must be done in person. Therefore, the voting is dependent on the personal attendance of the member.

### **Place of BoD's Meeting**

The place where the meeting of BoD would be held is usually specified in the invitation letter sent to BoD members unless the company’s AoA stipulate that such meetings shall be held in a specific place. The Jordanian legislator has specified that BoD's meetings shall be held in Jordan unless the company has branches outside Jordan or the nature of its business requires otherwise. In that case, two meetings may be held outside the Hashemite Kingdom of Jordan per year.

### **Recording the Minutes of Meeting**

It is necessary to write down the minutes of the meeting and to record all the topics that were brought up for discussion, including the decisions that will be made as well as the place and date of the meeting, the names of the attendees and those who object to any decision. The person who performs such a task is called the Secretary.

## **10. Powers & Duties of BoD in Public Joint-Stock Companies**

### **The Powers of BoD and the Restrictions Imposed Thereon**

Since BoD is considered the main body in the company that handles the management and organization of the company's financial and administrative affairs, it takes a large role in this field when compared to other bodies in the company. BoD is also regarded as the effective body, on which the company is highly dependent, allowing BoD to take actual control of the development and implementation of the company’s policies. With regard to that, the general rule is that BoD shall have all the powers to manage the company, and such powers may be specified either by law or by the company’s AoA or MoA. The Companies Law has identified the powers and authorities entrusted to BoD, without extending these powers and has instead left such

---

34 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 447

matter to be dealt with by the company's AoA<sup>35</sup>. The law has only granted some powers to BoD as stated in the text of Article (137) of the Companies Law, which confined the authority of BoD to only electing a Chairman and a Vice-Chairman. Article (150) stipulated the BoD has the power to elect a member of the shareholders to fill the vacant position of a BoD member in the case of a vacant position for whatever reason. Article (153) of the Jordanian Companies Law has also stipulated that BoD has the power to appoint a General Manager for the company whereas Article (151) of the Companies Law has granted the BoD the power to handle the financial, accounting, and administrative matters, under specific regulations. Article (154) of the Companies Law has also given BoD the discretion to appoint its own Secretary.

In light of the above, we find that the Jordanian Companies Law did not explicitly stipulate what powers BoD has when compared to what is stated in other laws. However, the powers of BoD are usually defined by the company's AoA, in accordance with Article (156) of the Companies Law. The company's AoA usually encompass the wide powers of BoD, except for what is expressly granted as a right to the General Assembly, without limiting such powers for the General Assembly, if it is done within the limits of the law. In most cases, the AoA of a public joint-stock company define the powers and authorities of BoD, without overlooking anything. Moreover, AoA provide the detailed provisions agreed upon by the founders for managing the company. In such case, the company's AoA either extend the powers of BoD concerning the management of the company to cover all the actions necessitated by the purpose of the company, except for what is reserved as a right to the General Assembly or limit these powers to a specific department<sup>36</sup>. Despite these broad powers given to BoD by the AoA of the public joint-stock company, this power remained non-absolute and was widely limited.

### **The Limitations on the powers of BoD**

The company's interest requires the members of BoD to carry out certain tasks, which are called, which are called positive duties. In addition, the ethics and codes of management require the members of BoD to keep several duties out of their scope of responsibility, which are called negative duties. The member of BoD may not exploit his position to use the company's assets, in a way that brings him benefits and in a manner that contradicts with his actual duty, which is to maintain and manage the company's assets.

The members of BoD must also refrain from negatively using any of the information they have directly or indirectly received by virtue of their position to achieve their benefits as stated in Article (158) of the Companies Law.

This requirement explains that the member of BoD is entrusted with the interests of the company and therefore he must not abuse that against the interests of the company and shareholders, provided that otherwise he will be dismissed from his job or position and the compensation for

---

<sup>35</sup>Prof. Aziz Al-Akaili, *Illustration of Commercial*, Dar al-Thaqafa lilNashr wal-Tawzi',1995, p. 294.

<sup>36</sup> Hashem Mohammad Khalil, "Claims arising from the mistakes of BoD in a public joint-stock company," (2011) Research was presented to fulfill the requirements for obtaining a Master's degree in private law, p. 50.

the damages incurred to the company shall be claimed, except for the information permitted to be published in accordance with the laws and regulations.

Article (186) of the Companies Law has also stipulated that the approval of the General Assembly does not exempt the Chairman and the members of BoD from this liability. Also, it was previously stated that the members of BoD are not allowed to manage a company that is similar or rival to the company, of which they are members of its BoD, and may not carry out any technical or administrative activities in any joint-stock company without a license.

Under Article (166) of the Companies Law, it is prohibited for the Chairman and the members of BoD in a public joint-stock company as well as the General Manager of the company and any employee to use directly or indirectly the company's shares, based on information they have obtained, by virtue of their positions or jobs in the company. Moreover, it is not allowed to pass this information to any other party with the intention of affecting the prices of shares of this company or any subsidiary or holding company or a company that is affiliated with the company, in which he is a member or an employee. In the event that this effect is likely to happen, every deal or transaction, to which the provisions of this Article apply, shall be considered null and void. The person who is involved in this shall be held accountable for the damages incurred to the company, its shareholders, or third parties if a case was raised regarding that<sup>37</sup>.

2. Since BoD is considered the executive body of the public joint-stock company and is only responsible for carrying out all the activities and procedures that achieve the purpose or the objectives of the company as stipulated in the company's contract. BoD must not exceed the limits of its powers to achieve the aforementioned purpose. For example, if a fertilizer company was incorporated, BoD may not decide, on its own, to manufacture medicines.

3. Since BoD is deemed responsible before the company's General Assembly for how the company's affairs are managed, the company's general assembly may herein take decisions that limit the management of BoD by specifying a certain amount of money that BoD may not exceed when carrying out some of the company's activities or define BoD's authority about the dispose of the company's assets.

The decisions that are made by the General Assembly and which limit some of the powers of BoD should be taken within the General Assembly's competence and in a lawful and appropriate manner. However, the General Assembly may not take away the powers of BoD that are given based on the provisions of the law<sup>38</sup>.

4. Some provisions of the Jordanian Companies Law have limited the powers of BoD and stated what activities BoD is prohibited from carrying out, including what requires taking certain measures before acting and planning. For example, the law has prohibited BoD from contracting, on behalf of the company, with the chairman of BoD or any of its members or the General Manager and none of them shall have any direct or indirect interest in the contracts and projects

---

<sup>37</sup>Prof. Fayyad Al-Qudah, "Promoting the Integrity of the Business Sector in Jordan" (2013), JIACC in the Hashemite Kingdom of Jordan, p. 6.

<sup>38</sup> Prof. Abu Zaid Radwan, Commercial Companies in Egyptian Law, Dar Al-Fikr, Cairo, 1977, p. 631.

undertaken by the company, except for the pledges and tenders, where everyone is allowed to compete for. In this case, two thirds of BoD must accept the offer of the competing member. Likewise, BoD shall not adjust the capital, whether by decreasing or increasing it, nor make any amendments to the company's contract or its AoA, nor liquidate the company since such matters fall under the competence of the company's General Assembly<sup>39</sup>.

We must point out that the decisions legally made on behalf of the company by BoD, within its powers are binding on the company and must be executed. However, if such action was carried out by a member of BoD and has caused harm to others, the company shall be obligated herein to compensate the third party and is entitled to make the said member pay the amount of the compensation<sup>40</sup>.

### **Duties of BoD<sup>41</sup>**

There are duties that were stipulated in the company's AoA, and there are other ones that were stipulated in the Companies Law with regard to the proper management of the company to ensure that objectives are achieved. These duties are as follows:

- 1) Every member of BoD shall strive to carry out his tasks in order to achieve the interest of the company.
- 2) At the first post-election meeting, each member shall submit to BoD a written statement detailing what he owns of shares in the company as well as his wife and young children in addition to the names of other companies, where he and his wife and young children own shares especially if the company is a joint-stock company that is a shareholder in those other companies. Let alone that he shall submit to BoD any changes made to this data within fifteen days as of the date of the said change.
- 3) It is not allowed for BoD to grant a cash loan to any member of BoD, the Chairman, or any of his affiliates or their spouses, except for banks and financial companies.
- 4) BoD shall prepare, within a period that does not exceed 3 months as of the end of the company's financial year, the following account statement and data to be presented to the General Assembly at its annual meeting:
  - a) The company's annual general budget, profit and loss account, and cash flow statement being ratified by the company's auditors.
  - b) The annual report of BoD on the company's business during the last fiscal year as well as the future expectations for the upcoming year.

---

39 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 450-454.

40 The Jordanian Court of Cassation, in its capacity as a jurist, with the decision No. 4445/2005 (a five-member jury) dated 2/7/2006 has stated that, "The BoD or the General Manager of the public joint-stock company shall have full powers in managing the company within the limits defined by AoA. The compensations and works practiced by the BoD or the Chairman on behalf of the company are binding on the company against third parties who deal with the company in good faith."

41 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 450-454.

5) BoD has to urge the company's General Assembly to hold an ordinary meeting in the Kingdom once a year at least. The said meeting shall be held during the 4-month period until the end of the fiscal year.

6) BoD shall provide the Companies Controller with copies of the accounts and statements mentioned in the previous paragraph, within no less than 21 days prior to the date of the company's General Assembly meeting.

7) BoD shall publish the company's general budget sheet, its profit and loss account statement, a complete summary of BoD's annual report, and the auditors' report, within a period that does not exceed 30 days as of the date of the General Assembly meeting in local newspapers.

8) BoD shall prepare a report ratified by the Chairman of BoD every six months, in which it indicates the financial status of the company and the results of its business. The Companies Controller and Amman Financial Market shall provide a copy of this report, within sixty days as of the date of the General Assembly meeting.

9) The BoD of a public joint-stock company shall circulate a detailed financial statement in the company's headquarter or upload it on the company's website, if any, within at least three days prior to the date specified for the meeting of the company's General Assembly, and that is for the perusal of the shareholders, and the Controller shall be provided with a copy of the statement, provided that it includes the following data:

a) All the amounts received by the Chairman and the members of BoD from the company during the fiscal year, including wages, fees, salaries, bonuses, remunerations, and etc.

b) The benefits enjoyed by each of the Chairman and the members of BoD in the company, such as free residence, cars, and beyond.

c) The amounts paid to each of the Chairman and the members of BoD during the fiscal year such as expenses of travel and transportation inside and outside the Kingdom.

d) The voluntary contributions paid by the company during the fiscal year in detail and the bodies that received them.

e) The names of the members of BoD as well as the number of the shares owned by each member, and the term of their membership.

10) When addressing the shareholders to attend the General Assembly meeting, BoD shall send the invitation to each of them by mail within at least fourteen days prior to the scheduled date of the meeting. The invitation may be sent by hand, if it is signed when received. The company's agenda, BoD's report, the annual budget and final accounts, and the auditors' report shall all be attached to the invitation.

11) BoD shall announce the scheduled date for the meeting of the company's General Assembly in two local daily newspapers one time at least, within a period that does not exceed fourteen



days prior to that date of the meeting, and BoD shall announce this once on one of the audio media not more than three days beforehand.

12) BoD shall send an invitation for the General Assembly meeting to each of the company's Controller and auditors at least fifteen days prior to the date of the meeting. Any meeting held by the General Assembly shall be considered null and void if the Controller does not attend and the auditor, in such case, must attend or send a representative, subject to liability.

13) BoD shall put in place specific regulations for the administrative, financial, and accounting matters, and define in detail the duties and responsibilities assigned to BoD in such matters, in a manner that does not violate the provisions of the law and regulations. Upon the recommendation of the auditor, the Minister may make any amendments to achieve the interests of the company and its shareholders. Such regulations must also contain the duties of the General Manager and BoD's Secretary as well as their remunerations and privileges identified by BoD.

14) Once the company's business starts, BoD must issue certificates of the shares owned by each shareholder after withdrawing the temporary documents in case they were previously issued by BoD, and the company's documents shall be stamped and signed.

15) BoD shall invite the company's General Assembly to a meeting, within the last three months as of the end of its appointment duration to elect a new BoD in its place, if BoD shall continue its work until a new BoD is elected if the election is delayed for whatever reason and provided that such delay shall not exceed three months as of the date of electing the existing BoD.

16) BoD shall execute the decisions of the General Assembly, provided that such decisions were made in accordance with the provisions of the law. Moreover, if it turns out that the company is suffering from bad financial or administrative conditions or that it is suffering from severe losses that affect the rights of shareholders, BoD shall inform the Companies Controller of such cases.

## **11. The Liabilities of BoD's Members**

### **Civil Liability**

If the BoD a public joint-stock company is mandated to carry out the tasks and responsibilities of managing a public joint-stock company on behalf of its shareholders, BoD must legally exercise the due diligence, so the company can achieve its goals and objectives, for which it was established. In addition, BoD must refrain from doing any activities that may bring harm to the company. BoD can also be regarded as an agent, on behalf of the shareholders, that manages the company and carry out its business. In such case, it is considered a paid agent. Therefore, by virtue of this, BoD must exercise ordinary diligence in accordance with Article (841/2) of the Civil Code. In addition to the general rules of liability, the Jordanian Companies Law did not overlook the regulation of the responsibility of BoD in a public joint-stock company. Among the most significant forms of liability regulated by the Companies Law are the following:

1- Mismanagement and violation of laws, regulations, and instructions.

The Chairman and the members of the company's BoD are jointly and severally liable for compensating the company, shareholders, or third parties for any damages that arise from their mismanagement of the company or their violation of the provisions of this law, the regulations, and instructions issued pursuant thereto or the company's AoA. In this regard, everything that states otherwise is void<sup>42</sup>. The approval of the General Assembly shall not preclude the BoD's release from its liability without legal prosecution of the Chairman or the members of BoD. Moreover, such liability does not extend to the Chairman or any member, whose absence or objection was proven in the meeting, in which the violation or mismanagement was visible.

Many provisions must be considered by the company's BoD, its CEO, and its General Manager, of which the most important are the following:

- A- The public joint-stock company may not, under penalty of nullity, grant a cash loan of any kind to the head of the company's BoD or any of its members, their affiliates, descendants, or the spouse of any of them, except for banks and financial companies that may grant a cash loan to any of those in accordance with their objectives and terms, based on which they deal with their other clients. (m/181).
- B- As the case may be, each company, its partners, its BoDs, or its managing committee, shall abide by the provisions of this law as well as the memorandum of association and the articles of association herein, and enforce the decisions made by its General Assembly. (M/281).
- C- In the first meeting held after the election of BoD, the Chairman and the members of BoD in a public joint-stock company, as well as the General Manager and the senior managers, shall submit to BoD a written declaration that includes the number of shares owned by them, their spouses and their minor children in the company as well as and the names of their other companies, in which they own shares in the event that such companies are shareholders in the other companies. Furthermore, they shall submit to BoD any changes that are made to this data, within fifteen days as of the date of the change. (M/180).
- D- Whether in a personal capacity or as representatives of a legal person, the Chairman and the members of BoD, as well as the General Manager and the employees, shall be prohibited from becoming members of BoD in a company that is similar to their company in terms of its business or its objectives or even in a company that is competing with theirs in terms of business, nor may they carry out any work that competes with the business of their company. (M/188).
- E- the Chairman or any of the members of BoD as well as the General Manager, or any employee working in the company may not have a direct or indirect interest in contracts, projects, and partnerships that are concluded with the company or on their behalf (except for public bids).
- F- The BoD of a public joint-stock company shall circulate a detailed financial statement in the company's headquarter or upload it on the company's website, if any, within at least three days prior to the date specified for the meeting of the company's General Assembly, and that

---

<sup>42</sup>We believe that complying with any provision that exempts BoD from its liability is null and only intended to apply the general provisions of Tort, where Article (0272) of the Civil Code stipulates that: "any condition that results in the exemption of liability arising from a wrongful act shall be null and void".

is for the perusal of the shareholders, and the Controller shall be provided with a copy of the statement, provided that it includes the following data:

- a) All the amounts received by the Chairman and the members of BoD from the company during the fiscal year, including wages, fees, salaries, bonuses, remunerations, etc.
- b) The benefits enjoyed by each of the Chairman and the members of BoD in the company, such as free residence, cars, and beyond.
- c) The amounts paid to each of the Chairman and the members of BoD during the fiscal year, such as the expenses of travel and transportation inside and outside the Kingdom.
- d) The voluntary contributions paid by the company during the fiscal year in detail and the bodies that received them.
- e) The names of the members of BoD as well as the number of the shares owned by each member, and the term of their membership.

Mismanagement or violation of the laws, regulations, instructions, and the company's AoA undoubtedly causes "damage" to the company, the shareholders, or other third parties - including the company's creditors -. Therefore, the plaintiff is obligated to prove the causal link between the event of mismanagement or the violation of the law and the damage caused as a result<sup>43</sup>. Moreover, what is meant by intended damage here is the actual damage and loss of profit, based on the general rules of the Civil Code<sup>44</sup>, which authorizes the compensation for these two types of damage arising from Tort, which is the basis on which this responsibility is built against third parties and does not require a judicial warning before filing a lawsuit<sup>45</sup>. As for the liability that BoD shall bear against the shareholders and the company, it is most likely that it is contractual and does not require any compensations for the loss of earnings.<sup>45</sup>

Therefore, the Companies Law stipulates that such liability is considered a joint liability between the Chairman and the members of BoD, except for the member who was absent when the

---

43 See the decision no. 139/2005 of the Jordanian Court of Cassation, in its capacity as a jurist (a five-member jury) dated 25/5/2005, Adalah Center's publications, in which it was stated that "The provisions of Articles 256, 266, 267 and 270 of the Civil Code are adopted to deal with the wrongful act that arises from a tortious liability, as shown in concise and clear terms that demonstrate the provision of liability for the wrongful act in three elements, listing the compensations for the damages arising from action or non-action, provided that action or non-action and the damage caused in addition to the causal relationship between them are apparent."

44 Article (266) of the Jordanian Civil Code. See the decision of the Jordanian Court of Cassation (rights) no. 3131/2011 (a five-member jury) dated 6/10/2011, Adalah Center's publications, in which it was stated that "Every harm caused to others obliges the doer to provide guarantees, and such guarantees are estimated in all cases to the extent of the damage incurred and what has not been received, provided that it is a natural result of the wrongful act..."

45 See the decision of the Jordanian Court of Cassation, in its legal capacity, no. 1404/2007 (a five-member jury) dated 21/11/2007, Adalah Center's publications, where it was stated in Article (157) of the current Companies Law: "1. if the wrongful or unlawful act was regarded as the legal basis for the lawsuit, it is not necessary in such case to file a judicial warning as a judicial proceeding for the necessity of the judgment in the case, in accordance with the provision of Article (362) of the Civil Code and the established jurisprudence (Discrimination of Rights 1108/2005). 2. The lawsuit shall be dismissed if it was brought five years after the approval for the (plaintiff) company's annual budget was obtained, in accordance with the provisions of Article (157) of the Companies Law."

decision was made or when the violation happened, or the member who was present and had reservations on the decision.

### **Disclosure of Confidential Information in the Company**

Article (158) of the Jordanian Companies Law stipulates that the Chairman and the members of BoD are all responsible for disclosing the company's secrets. This article requires that the information of the company is confidential. Moreover, such information is classified as confidential by its very nature. This is something that can be deduced either from the company's regulations and instructions, or from the decisions of BoD or the executive management, or even from the relevant norms, as is the case in business secrets related to production or marketing, or when certain information becomes classified as confidential, which its nature indicates otherwise. In this case, a decision must be made by a competent authority. Moreover, obtaining such information must be justified by the virtue of the position occupied by the Chairman, the member, the manager, or the employee or by the virtue of their work in the company. Lastly, the disclosure of the company's secrets undoubtedly brings harm to the company. The provisions referred to in the first form of liability apply to this relevant form, whether with regard to the elements of liability, the type of damage, or the method of estimating it.

Each of the companies' Controller, the company itself, and any shareholder and any interested party are entitled hereunder to file a civil liability lawsuit as stipulated in Articles (160) and (161) against the company's BoD. However, the BoD is not entitled hereunder to "invoke the acquittal issued by the General Assembly" unless it was preceded by disclosing the company's annual accounts and submitting the auditors' report. Such acquittal only covers the matters that the General Assembly managed to know and have access to.

### **Sub-exchanging the company's shares based on internal information to achieve a benefit or avoid a loss.**

Article (166) of the Companies Law stipulates that the company's shares must not be used based on internal information, which a person has had access to by virtue of his position or work. Such stipulation is necessary since the person, in this case, is in a better position than the other people who are using the company's shares. Therefore, the securities laws stipulate that such essential information that may affect the trading of shares must be disclosed. For example, the Chairman or the member of BoD may purchase shares from the company after having ascertained that the company has concluded profitable contracts or deals, or even sell his shares after having ascertained that the company will suffer from severe losses. This prohibition extends to those who directly or indirectly deal through a company wholly or mostly owned by them or by one of their sons. The Chairman and the members of BoD as well as the CEO, the General Manager, and any employee working in a public joint-stock company may not transfer this information to third parties to gain a profit or pay a fine, through using the company's shares or the shares of any subsidiary, holding or allied company of this company or to affect the prices of shares in any of these companies.

This article nullifies any disposal of shares that has violated the provisions of this article and stipulates that those who caused that shall be responsible for making compensations for the damage incurred by the company, its shareholders or third parties.

### **Liability in the event of a deficit in the company's assets upon liquidation**

If the Chairman or the member of BoD or any manager or employee in the public joint-stock company misuses, retains or is obliged to pay any of the company's funds under liquidation, he shall bear the liability thereto. In such case, he is obligated to pay them to the company with legal interest and compensate for any damage incurred by the company or others. In addition, he shall bear any criminal liability imposed on him by the applicable legislation. Likewise, if it is found during the liquidation that some of the company's business was conducted to defraud its creditors, the existing and former Chairmen and the members of BoD shall solely be responsible for the company's debts or obligations, as required.

Furthermore, the provisions of the Commercial Law on bankruptcy shall be applied to the members of BoD in the company, under liquidation.

In all cases, the lawsuit regarding this liability shall be dismissed after five years as of the date of General Assembly's meeting, in which the annual budget and the final accounts were ratified. This indicates that the dismissal of the lawsuit is subject to this five-year period.

### **Criminal Liability**

Besides the civil liability, the Chairman and the members of BoD in a public joint-stock company may bear criminal liability. According to the Economic Offences Act, there are many acts that the Chairman and the members of BoD as well as the CEO and the General Manager may demonstrate and be classified as "economic offenses", in accordance with the definition contained in Article (13) of the (amended) Economic Offences Act of 1993. Economic offenses are among the offenses that fall under the jurisdiction of ACC in accordance with Article (5/c) of its law. Any crimes that involve "public funds" fall under economic offenses. In accordance with Article (2) of the Economic Offences Act, the funds "owned" or "subject to the management or supervision" of public joint-stock companies are considered public funds. Moreover, to implement the provisions of the Economic Offences Act, the Chairman, the members of BoD and every employee, appointed worker or whoever is assigned a paid or unpaid service in the public joint-stock company shall be considered "a public employee". To fulfill the conditions on criminal liability, the offenses committed by any of the aforementioned shall be regarded as offenses committed by "a public employee". Besides the economic offences, another kind of offense was stated in the Companies Law along with other offences that were stated in the provisions of specific laws like the securities law. We shall list below the major offences that may be committed by the Chairman and the members of BoD as well as the executive body and the employees of the public joint-stock company<sup>46</sup>.

---

46 Prof. Fawzi Mohammad Sami, Commercial Companies, Dar al-Thaqafa lilNashrwal-Tawzi', 7th Edition, 2014, p. 466.

**First: The crimes stipulated in the Penal Code (with the induction to the Economic Crimes Law).**

1. The crime of soliciting, accepting or offering a bribe in violation of the provisions of Articles (170-173) of the Penal Code.
2. The crime of embezzlement in violation of the provisions of Article (174) of the Penal Code.
3. The crime of office exploitation in violation of the provisions of Article (175) of the Penal Code.
4. The crime of forgery or using a forged in violation of the provisions of Articles (260-265, 171) of the Penal Code.
5. The Chairman of the board of directors may be punished if he is a general manager and gives a check without balance or if the authorized member signs on behalf of the company a check that has no balance under the provisions of Article (121) of the Penal Code.
6. It is almost unanimous in jurisprudence that the Chairman and members of the BoD are punished with a crime of breaching trust when the Chairman and members of the BoD dispose of the company's funds contrary to the purpose for which they were allocated.

**Second: The crimes stipulated in the Companies Law**

Article (278) of the Companies Law stipulates that any person who commits any of the following acts shall be punished with imprisonment from one to three years and a fine of no less than one thousand dinars and not more than ten thousand dinars:

1. Issuing shares or certificate thereof, or handing them to their owners, or offering them for trading before completing the relevant procedures in accordance with the provisions of the legislation in force.
2. Making fictitious underwritings for shares, or granting a loan, or accepting subscriptions therein in a fictitious or unreal manner.
3. Organizing the budget of any company and its financial statements contrary to the reality or providing with and including incorrect data and information to the report of the BoD or its management body, as the case may be, or the report of its chartered accountant. In addition, providing incorrect information to its general assembly, or concealing information or clarifications that the law requires for such to be declared, with the intention of concealing a real situation of the company for the shareholders or related parties.
4. Distributing fictitious profits or not identical to the company's real state.

Paragraph (b) of the same article stipulates that the aforementioned penalties shall be applied to the engager and instigator of the crimes set forth above.

It also stated in Article (282): "Any violation of any provision of this law or any bylaw or order issued pursuant to which the law does not provide for any special punishment thereto, the

perpetrator shall be punished with a fine of no less than a hundred dinars and not more than a thousand.<sup>47</sup>

Furthermore, this liability came in accordance with the general principles regarding the liability of the legal person for the actions carried out by its representatives in its name towards others when they practice those actions in the name of the company. This was stated Article (74/2) of the Jordanian Penal Code, which stipulates that “corporate bodies are criminally liable for the actions of their director, members of their management, representatives and workers when they perform these acts in the name of the aforementioned bodies or by one of their means in their capacity as a legal person.”

## **12. Conclusion**

Economic activity in the form of companies have a huge force towards growth, so we found through this research that the joint stock company is the most powerful tool for this growth due to its ability to accumulate savers' money, carry out mega projects and its impact on global and local financial markets. Therefore, the economic developments taking place in the international arena necessarily lead to the development of the relevant legal rules.

We also find that the companies' laws in most countries regulate the work of the joint-stock company by imposing rules and regulations related to many organizational, administrative and structural matters in public joint-stock companies, which aims to protect investors and minority shareholders from abuse by the owners of large proportions. We also find that the legislator has imposed for the joint stock company listed on the stock exchange to have a tight AoA to control it and put in place systems for managing risks in the company.

It is worth mentioning that the Jordanian Companies Law is unique in terms of permitting a member of the BoD of a public joint-stock company to own a certain number of company shares (guarantee shares), contrary to the case in other countries. The Jordanian legislator is also singled out when considering any meeting held by the general assembly in a joint-stock company to be invalid and has no effect if it is not attended by the Controller of Companies or whomever he delegates from among the employees of CCD that is affiliated to the Ministry of Industry and Trade, which indicates that the legislator is interested in regulating the general rules of a public joint-stock company and protecting the public and personal interests of shareholders, including the involvement, integration and access to the level of global financial markets to attract investors and assure them of having a transparent and stable environment to invest their money in away from job exploitation and corruption.

## **13. Key recommendations**

1. It is of great importance to amend the Companies Law in terms of depriving any person proven to be incompetent in managing the joint stock company for a certain period and adopting the concept of an alternate member of the board of directors. So that a replacement member for the disenfranchised member is elected through voting by the rest of the BoD.

---

47 Dr. Fayyad Al-Qudah, "Responsibility of the Boards of Directors of Public Joint-Stock Companies in the Jordanian Law" (2012)

2. It is of great importance to amend the Companies Law in terms of setting a legal period during which the first BoD meeting takes place.
3. To amend the Companies Law in terms of identifying the matters that the Minister is entitled to request for amendment based on the powers granted to this Minister by the law, and the text does not remain general so that his authority is absolute in this matter.
4. It is of great importance to stipulate that the auditor of the public joint-stock company is registered in the auditors' register and approved by the Securities Commission.
5. It is of great importance to rehabilitate and train the persons who undertake the tasks of inspecting public joint-stock companies and granting them advantages that will free them of the pressures they may be exposed to while exercising their duties in controlling public joint-stock companies.

#### **14. Research References**

##### **First: Books:**

##### **References in Arabic:**

- Prof. Fawzi Mohammad Sami, "Commercial Companies", "General and Special Provisions" "Benchmarking Study" Amman, Jordan, Dar al-Thaqafa lil Nashrwal-Tawzi', 1999
- Dr. Muhammad Khalil Al-Hammouri, Protection of the Minority of Shareholders or Partners in the Private Joint Stock Company and the Limited Liability Company, a benchmarking study and proposed solutions, Al-Tawfiq Press, 1987.
- Dr. Nadia Faudel, the provisions of the company according to the Algerian commercial law, Houma House, 2002.
- Muhammad Alwan, Public Joint-Stock Companies in the Egyptian Legislation, Dar Al-Nahda Al-Arabiya for Printing and Publishing, 1994.
- Dr. Tharwat Habib, Lessons in Commercial Law, Commercial Companies, Al-Galaa New Library in Mansour, 1983.
- Dr. Edward Eid, Commercial Companies, Joint Stock Companies, Beirut, 1970.
- Dr. Hani Salah Sarie El-Din, Private Commercial Companies in the Egyptian Law, without a publisher, 2002.
- Dr. Aziz Al-Akaili, Explanation of the Jordanian Commercial Law, Part IV, Dar al-Thaqafa lil Nashrwal-Tawzi', Jordan, 1998.
- Dr. Aziz Al-Akaili, Explanation of Commercial Law, Dar al-Thaqafa lil Nashrwal-Tawzi', 1995.
- Dr. Mahmoud Kilani, Commercial and Banking Encyclopedia, Volume Five, First Edition, Second Edition, 2009.
- Dr. Mortada Nasser Nasrallah, Commercial Companies, Al-Irshad Press, 1979.
- Ahmed Al-Qatamine, Strategic Management, Concepts and Applied Cases, Dar Majdalawi lil Nashrwal-Tawzi', Amman, Jordan, 2002.



**References in English:**

Monks, R., & Minow, N., Corporate Governance, 2nd ed., Black Well publishers, Malden, 2001.  
Franck BANCEL, La gouvernance des entreprises, Paris: ECONOMICA, 1997

**Second: Legislations**

1. The Jordanian Constitution of 1952.
2. Jordanian Civil Law No. (43) of 1976.
3. Jordanian Companies Law No. (22) of 1997.
4. Securities Law No. (76) of 2002.
5. Banking Law No. (28) of 2000.
6. Law No. (73) of 2003 on Regulating the legal accounting profession.

**Third: Judicial rulings:**

1. Decision of the Supreme Court of Justice No. (24) in Case No. (93/2011), issued on January 18, 2012 (unpublished).
2. Decision of the Jordanian Court of Cassation in its legal capacity No. 3150/2002 (a five-member panel) on 20/1/2003.
3. The decision of the Jordanian Court of Cassation in its legal capacity No. 4445/2005 (a five-member panel) on 2/7/2006,
4. Decision of the Jordanian Court of Cassation in its legal capacity No. 139/2005 (a five-member panel) on May 25, 2005.
5. Jordanian Court of Cassation Decision in its legal capacity No. 3131/2011 (a five-member panel) on 10/6/2011.
6. Decision of the Jordanian Court of Cassation in its legal capacity No. 1404/2007 (a five-member panel) on 11/21/2007.