

Original Research Article

Authenticity of police evidence in criminal evidence

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Abstract

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The complainant when appearing before the men of the judicial police shall make his statements within the framework of the so-called "police testimony" on which the criminal judge may base himself at the trial stage as proof of proof. The legal logic settles to make the statements made by the complainant in the early stages of committing the crime "conditional benefit" and are usually the truth and closer to be real as being led by the complainant before he has prepared his defense to prevent and escape the proportion of the offense to him. As a result of that, most of the specific form of this conditional statement which is permeated by a set of controls and conditions that would give it a legal basis, which creates a reflection on the principle of which creates a reflection on the principle of self-conviction of the criminal judge in his assessment, and allow the defendant to convict him accordingly, even if modified in future before the competent court and as a result affect the legal status of the complainant. The focus of this study is to shed light on the nature of the statement made by the complainant before the judicial officer and distinguish them from similar legal situations. And what is its legal evidence in evidence? And to discuss the most important conditions that must be met in the police statement to be based on it and extend the emotional conviction on what is stated and weight, especially if it was abandoned at a later stage and its role when the judgment is under the provisions of Jordanian law.

Keywords: Police testimony, criminal, trial stage, proof of proof, conditional benefit

INTRODUCTION

The subject of the study: The Code of Criminal Procedure gives the officer of the judicial authority the power of hearing to inform the person who collects sufficient information about the crime, to examine the extent of his relationship as a defendant of the crime and to know how to commit or contribute to committing the crime by calling that person to appear before the control officer in which the employee asks him about the incident in which he is suspected and records his testimony. Where the judicial authorities exercise the set of pre-trial procedures in the pre-trial stage of public prosecution, with the aim of investigating the crime, controlling its effects, searching for the perpetrators and gathering the necessary information thereon; this stage is not a stage of the public

proceedings, but precedes and paves the way for this case. It is not part of the dispute, and not a judicial stage, although it is the basis for the judicial investigation.

The Jordanian Code of Criminal Procedure sets forth the duties and duties assigned to the officers of the judicial police in an original manner, including the procedures of inference, to uncover the crimes, collect evidence and arrest the perpetrators to bring them to justice, in addition to granting extraordinary powers to the officers of the judicial police in cases of criminal offense,.

It seems that the Jordanian law did not equate the stage of inference with the subsequent stages, despite the importance of this stage in the criminal case, as the complainant lacks the right to the availability of

guarantees in the stage of inference. Although "criminal proceedings in a state are only the precise picture of freedoms in this the country, which aims to reveal the truth and justice by legitimate means. "Respect for personal freedoms would prevent the arbitrariness of the judicial police from the outset, and availability surrounding the statements issued by the suspect during the hearing of the statement of the fence of credibility and clarity. Therefore, we will explore the subject of this study on the "Legitimacy of Policing in Evidence

The importance of the study

To study this subject is of great importance to many groups of society, especially judges, lawyers, professors, students of faculties of law, institutes of justice, the accused and other members of society and its civil and juridical institutions, due to the consequences, consequences and gravity of the violation. The importance of the conditional benefit of the complainant, the fact that the testimony issued shortly before the incident and the facts of the crime, and the extent of being considered evidence in the theory of criminal evidence and the many fundamental problems, specifically on the issue of its legitimacy and strength Her identification and persuasive, as well as the large number of legal and doctrinal differences on the issue of authoritative testimony when included recognition of the defendant in a criminal prosecution in general, and the foundations invoked after the reversible. And finally the impact of the police briefing, which has become the subject of research and discussion in the courtrooms and chambers of lawyers, universities, seminars and conferences.

Objectives of the study

This study aims at finding a reference to the judges in the knowledge of the origin, basis and essence of this conditional statement as evidence in the theory of criminal evidence, and for the purpose of surrounding it with a fence of interference and prejudice, and to remove the ambiguity of this subject of confusion, ambiguity and thumb, especially in some cases where it is based on A conditional statement in the final judgment when he confesses to committing the offense. And to clarify the deficiencies and shortcomings in the organization of the legislator of this statement and the submission of proposed conditions working to fill the shortfall or imbalances or shortcomings, and finally benefit from the experience of the comparative penal law in organizing this topic. To clarify the concept of hearing the police statement and its effect as proof of evidence based on the criminal judge or not, and to clarify the legal form or template to be available in them, and to meet the

conditions that must be met with police evidence as proof of proof and the extent of reliance on the statement.

The Problem of Research

Has the Jordanian legislator been granted the authority to seek police evidence as proof of proof before the criminal judge? What are the criteria and conditions that give the conditional benefit credibility in the inference stage before the officers of the judicial police regarding the suspected crime? Is there any oversight of the Court of Cassation The Jordanian authority over the judge in the assessment of conditional statements? What is the effect of the respondent's retraction on his police testimony at the stage of the investigation or the trial stage on the legal status of the complainant?

Scope of research

This research stands at the end of the statement of the procedure for hearing testimony before the judicial officer during the stage of moderation and distinguish them from the procedure similar to them, and the conditions and impact of the case.

RESEARCH METHODOLOGY

We have adopted a descriptive comparative analytical approach, by presenting the issue, stating the legal texts that are addressed, if any, and then analyzing the text, indicating the strengths and weaknesses and diving in it, and then stating the position of the judiciary and jurisprudence on this. Researchers' opinion

Search Split

The researcher divides this research as follows:

The first topic

Legalization of conditional statements
The first requirement: the concept of conditional benefit.
The second requirement: the legal model of the police.

The second topic

The legal basis in the assessment of conditional statements
The first topic: Conditions of conditional benefit.
The second topic: Refraining from conditional benefit.

The first topic

Legal rooting for police action

The Jordanian legislator affirms in article 100 of the Code of Criminal Procedure that a record containing the testimony of a suspect must be made available when he appears before the judicial police, and the officer of the judicial police is obliged to edit the minutes of the testimony made in the inference stage. The officer of the judicial police and under the penalty of the invalidity of the procedures must: a) Organize a special record signed from him and inform the suspect or his lawyer if any ... etc. Therefore, the Jordanian legislator through this text to the need to determine the right of the complainant in the face of the judicial officer at the time of the statement contains a special record of the vava Police officer.

The importance of respecting the lawfulness of the evidence is evident in the inference stage, because the competent authority at this stage does not usually have the legal form available to the Public Prosecution, usually consisting of police officers who may mistrust the suspect. The considerations of exposing criminals to individual freedom guarantees flourish. Therefore, we present here the concept of conditional statement in the first requirement and then the legal model of the conditional benefit in the second demand as follows:

First Requirement

The concept of conditional benefit

A conditional statement refers to the procedure by which a person of special character registers communications, complaints and evidence of the crime in a direct manner, in addition to the result of various operations aimed at collecting information and evidence. This process is carried out by the officers of the judicial police in order to obtain preliminary information about the crime, Security checks, statements of suspects, reports of detection or inspection, as a result of an inspection, as well as description of the seizures related to the crime. The conditional statement is called the group of investigative operations carried out by the legally authorized body, the members of the judicial police, to detect the crime, its evidence and its perpetrators. The statements issued before the officers of the judicial police are almost free of guarantees because those who exercise them do not exercise the power of investigation or the power of government, and do not receive the confessions obtained in conditions, restrictions and procedures drawn up by the law in advance to achieve balance which is required between the rights of the defense, and what is necessary to show the truth of the means of investigation and research, and has been called non-judicial statements

because it is not organized organization determines the status of the law of procedures.

The conditional statement is a statement of statements made by the complainant before the judicial officer, which may be interrupted by confessions which are considered non-judicial result because they were issued outside the Judicial Council or before a non-judicial body, either written by the complainant by his hand or orally recorded in the record In accordance with the principle of the judge's freedom to form his or her belief, the judge is free to assess the value of the testimony, whether judicial or not, because it does not deviate from being evidence in the case, which is subject to the discretion of the judges, like the rest of the evidence.

The conditional criterion is the interrogation of the suspect and the recording of his testimony without discussing the answers or confronting him with evidence, witnesses or other suspects. An order owned by the authorities of the judicial authority.

It would be useful to say that interrogation is a preliminary investigation procedure, which only the Public Prosecution, represented by the same prosecutor, has the sole authority to collect indictments. In addition to the fact that the prosecutor is essentially a judge who is far from being suspected of influencing the accused or pressuring him to make statements that may not be in his favor. The officer of the judicial police only has the question of "hearing the testimony," which is a procedure of preliminary investigation, preliminary investigation and trial stage. The question is, in turn, a procedure carried out by the judicial officer and within its original jurisdiction, since it is not included in the detailed discussion of the suspect. It is also owned by the Public Prosecution and the Court. The question is limited to hearing the suspect without discussing the accused, defending him, or discussing the evidence against him.

In addition, the questioning of the complainant at the preliminary investigation stage must be carried out under certain guarantees imposed by the law to conduct it, in order to protect the rights of the complainant, so that he may have the opportunity to present his defense and to refute what is attributed to him. The conditional benefit does not require such guarantees. Beyond that, the result of the interrogation of important legal consequences, because the authority of the preliminary investigation has no more than the referral of the record to the investigator, unlike the authority of the preliminary investigation, it takes some actions, such as provisional release or detention - custody of the accused or the conduct of the investigation, and some These procedures do not H taken only after the interrogation of the defendant by the prosecutor. The hearing of the conditional testimony does not entail such an outcome. It should be noted that whoever has the power to interrogate has the power to legalize the criminal facts attributed to the suspect. The prosecutor is legally obliged to clearly and objectively

clarify the complainant. The conditional benefit does not entail adapting the accusation or identifying its elements. The bug is that questioning involves an accusation. The accusation should be issued by a judicial authority, which may not be issued by the executive.

In our view, interrogation is a judicial procedure of collecting evidence in the preliminary investigation, a process based on discussion and confrontation with free and detailed evidence. The interrogation takes the form of a dialogue or conversation between the complainant and the investigator.

On the part of the complainant, the nature of the conversation between the parties, and the interrogation is based on two basic elements that do not exist without them.

First: Discuss the complainant in detail in the charge assigned to him.

Second: Responding to the complainant against the evidence against him, including facing the other complainants or confronting him with witnesses.

A conditional statement also requires a codification procedure to guarantee the complainant that he is not to be attributed to him but to what he has said, acknowledged and acknowledged, especially since he is allowed to read it, or read it if he cannot read.

The recording of the testimony of the conditional statement, including the confession of the suspect in the inference stage, constitutes legal evidence of the circumstances in which the testimony was made and thus represents the evidence of volition and choice. The refusal of the suspect to sign the statement may be sufficient evidence of the lack of voluntariness and the choice of the below. Recognition, and proof that the organizer did not read the evidence is evidence of the lack of validity. This authority shall revert to the court of the subject in assessing the evidentiary value of the record of the seizure of evidence as a legal evidence that would legitimize the conditional benefit to be relied upon in the criminal evidence, it may take the record of the whole testimony or rely on part of it and subtract the rest.

Does the complainant have a refusal to make a police claim?

The jurisprudence and the judiciary have determined that the suspect's refusal to make a police claim should not be taken as a presumption against him and based on conviction, in the sense that it cannot be admitted that the judge has established his conviction of the conviction of the person's silence or his implicit interpretation of it as a confession. And we support the stability of jurisprudence and jurisprudence "is not attributed to the silence of the words," On the other hand, taking the meaning of the silence of the suspect that the implicit benefit thereof

violates the general elements of recognition, specifically the element on the need to recognize verbally clear, and from the suspect himself.

The second paragraph of Article 172 of the Code of Criminal Procedure stipulates that: "If the accused pleads guilty to the accusation, The President shall order that his confession be recorded with the words closest to the words used in his confession and then condemned by the Court and shall be subject to the punishment required by his crime, unless it deems otherwise." Accordingly, the recognition - in accordance with Jordanian law - must be verbally explicit and the court cannot take the silence of the suspect - whether guilty or accused - as an implicit confession. The researchers criticize the position of the Jordanian legislator that the recognition should be based on the charge, not on the facts, because the charge is the legal description that the investigator gives to the facts and has nothing to do with the complainant.

We see the silence of the Code of Criminal Procedure on the right to remain silent whether it is approved or denied. The right to remain silent is a natural right and can be inspired by other legal texts. The logic presupposes the necessity of benefiting from his confession. The evidence of his conviction or criminalization is presented, and there is no legislation that compels the suspect to respond to questions posed to him by the staff of the judicial police.

The silence of the suspect cannot be interpreted as an implicit statement of conviction, because the suspect in refusing to make a police claim uses his right of presumption of innocence and, of course, judicial conviction cannot be established to convict the suspect of a right recognized by law. On the other hand, interpreting the suspect's refusal to answer and his silence as a presumption of conviction is an indirect means of coercion. The silence of the suspect does not mean that he is convicted. The assumption that the suspect is silent should be ruled out only when he finds that all means of defense It is impossible because silence may be due to many other reasons, such as the desire to save a loved one, such as the silence of the son when he is accused of an act committed by his father or in cases of adultery when the person is arrested, for example, Girlfriend ... etc.

Based on the above, we find that the conditional benefit is a legal procedure other than the judicial, is that the suspect to make a statement freely and consciously and aware of the police about the offense, which is about suspicions, issued by the suspect orally and write in writing and authenticated by the suspect lighting or fingerprint His or her hand, in respect of the fact-fact-the offense attributed to him in whole or in part, shall not result in the arrest of the suspect

But referred within twenty-four hours to the competent authority, subject to the principle of judicial conviction in its appreciation and acceptance.

The Second Requirement

The Legal Model of Policing

There is almost no legislative and juridical stability on the need to release a special record of the death penalty. The problem of requiring the release of the record is reflected in the procedural rule, which requires proof of the procedure in writing, so that it can be verified. This can then be invoked in the minutes of the testimony. Where it is argued that the failure to edit the minutes of inference procedures does not produce the effects of the procedure, and does not serve as a basis for the court to rely on it. On the other hand, Dr. Muhammad al-Jabour goes on to say that the judicial officer can testify to what happened before the investigating authority or the court, in accordance with the Egyptian Court of Cassation that the information provided by the judicial officer should not be wasted because the record is not released.

First: the need to require a special record for the police

Dr. Jabour supports his opinion by asserting that the value of the information presented in such a case has nothing to do with the force of the record in the evidence, or what the edited record should have contained, but that it is related to another means of evidence, An eyewitness or a certificate of hearing, and the form of duty stipulated in the Code of Criminal Procedure must find its guarantees in determining the responsibility of the judicial ombudsman who fails to perform his duty, since such records, when included in the confession of the suspect, will have special strength in the evidence.

On our part, we see - in response to Dr. Muhammad al-Jabour - that the testimony to hear "indirect testimony" is the testimony made by the witness about facts not realized by one of his senses but heard from another person realized the facts by one of his senses shortly after the act, the person transferred is a witness in the case.

The suspect who confesses to the alleged criminal facts is not a witness to others, as Article 156 of the Jordanian Code of Criminal Procedure requires that it be considered as a testimony to hear, and therefore we believe that the testimony of the officer of the judicial police before the court is not testimony to the hearing, To make a police judgment by volunteering and choosing, in the sense of testimony to the circumstances in which the testimony was made. The importance of writing the statement, according to Mr. Farouk Al-Kilani, is particularly important in the case of recognition, in that it is impossible to estimate its validity and its value in proof unless it is recorded in a special record.

In our opinion, the recording of the suspect's testimony in a control record released by the judicial officer helps

the trial court to know the circumstances in which the testimony was made, giving it a greater ability to assess and judge the validity of the statement and to ensure that the judicial officer does not interrogate the suspect The oral investigation is not able to determine whether the testimony is relevant to a question or an interrogation.

Second: the legal form of the police

The conditional statement must include a specific legal model where the officer of the judicial police begins to organize the record of the seizure of the statement, proving the name of the security center in which it was organized, the date. The name of the suspect and the suspect's hometown, date of birth (age), place of residence, current status and other personal data. The suspect then takes note of the alleged criminal facts, and does not mean that he is being described Or to punish them, but to state this incident in general, and ask him to make a statement about it. If the suspect is silent and refuses to speak, it is not permissible to compel him to do so. Rather, he must take the testimony. The suspect must speak to the officer of the judicial officer to let him make a statement And that he should listen to him only, allowing him the space to say what he wants without boycotting or discussing it, otherwise he will count that interrogation - which is forbidden to the officer of the judicial police - and then record these statements as they are, without adding or deleting, Which is issued by the suspect, and which has been given in his tongue, he may not record any facts, statements or statements not indicated by the suspect. The editing of the record shall be considered in principle and shall include the name of its editor and its function, the date of its editing, The essential data needed to prove the validity of the record and the possibility of invoking it, in addition to what it contains The record is usually from the words of suspects, witnesses and other expert procedures, moving to the scene and inspecting it. After the suspect has given his full testimony, the officer of the judicial police must give him the opportunity to read and read the testimony or if the officer of the judicial police will not be able to read it, and then ask him to ratify it by his signature or by his finger, as the case may be. It is advisable to take the signature of the suspect at the end of each page. If he refrains from signing or fingerprinting, it is not permissible to compel him, but it is stated in the record with reasons.

But the question that arises in this regard: Does the complainant, when hearing the conditional statement refused to give him personal data?

Dr. Osama Kayed believes that "this right is limited to the crime and how to commit it, without extending to the

personal data of the complainant, such as his name, age, place of residence, his name, etc."We agree with the previous opinion, supported by our response to Article 110 of the Jordanian Code of Criminal Procedure, which grants the officer of the judicial police the right to identify the suspect and the necessary data, because the disclosure of identity and private data The suspect is within the jurisdiction of the judicial officer, and, secondly, the submission of such statements by the suspect does not expose him to liability or interfere with his right to defense or to be heard in the dock."We agree with the previous opinion, supported by our response to Article 110 of the Jordanian Code of Criminal Procedure, which grants the officer of the judicial police the right to identify the suspect and the necessary data, because the disclosure of identity and private data The suspect is within the jurisdiction of the judicial officer, and, secondly, the submission of such statements by the suspect does not expose him to liability or interfere with his right to defense or to be heard in the dock.

After that, the officer of the judicial officer who testified before him and his knowledge to write down his name and submit it at the end of the record of seizure of the statement, as well as the name of the clerk or editor and then sends it with the rest of the papers to the Prosecutor or Magistrate of the peace, as appropriate. These records, which are duly signed and certified by the judicial officers, must be sent to the Prosecutor promptly and without delay. This is confirmed in Article 46 of the Code of Criminal Procedure by stating that "the officers of the judicial police mentioned in Article 44) Are required, in the event of a recognizably criminal offense, or as soon as the homeowner requests them, to organize the seizure sheet and listen to witnesses' testimony, conduct investigations and house searches and other transactions that are in such cases the functions of the Prosecutor. Article 49 provides that "the officers of the judicial police who assist the Prosecutor shall submit to the Prosecutor without delay the information and the minutes of arrest they organize in the cases authorized by them with the rest of the papers."

The recording of the testimony issued by the suspect before the judicial police is of great importance for the purposes of judicial evidence first, and to ensure that the procedures they have carried out are consistent with the provisions of the law. Second, this can only be reached if the procedures carried out by the staff of the judicial officer are recorded through minutes Prepare for this end. The statements and statements are considered the first reference and the president in the minutes of inference, the first nucleus on which all the procedures of the case are based from the beginning to the end. It is necessary to pay attention to the formal and objective aspects so that the evidence is based on the truth and beyond the ambiguity and doubt it may raise. Judicial references dealing with the record of the statement as a legal evidence of proof.

The second topic

The legal basis in the assessment of conditional statements

Article 159 of the Jordanian Code of Criminal Procedure regulates the criteria to be met in a police statement by the suspect in the absence of the prosecutor and in which the crime is recognized as a legal evidence in the criminal evidence, provided that this conditional statement was made voluntarily and by choice and the requirement of volition and choice This means that the officer of the judicial police does not have the authority to force the suspect to speak out forcibly in a way that is not in his interest. As a result, the suspect if the officer of the judicial police proves that the suspect is not compelled to hear his testimony, this is a legal evidence proving the requirement of volition and choice, and vice versa.

However, the question to be asked is what is required the conditions that must be met for authorizing the police evidence? Can the suspect withdraw his police testimony before the criminal judge? Therefore, we will work to answer the previous questions by looking at the conditions of conditional benefit in the first requirement, and then to examine the extent of reliance on the conditional statement of the case before the criminal judge in the second demand.

First requirement

Conditions of conditional benefit

The hearing of the testimony means that the suspect asks the suspect about the incident after he has been informed of it, and confirms his statements thereon without discussing them or confronting him with the existing evidence. The Criminal Procedure Law The officer of the judicial police can only hear the suspect's statements without questioning. As a result of the hearing of the suspect's testimony before the staff of the judicial police, the testimony may involve his confession to the facts or the alleged crime. Can the testimony issued before the judicial police be considered evidence of the legal concept? What are the conditions for the authoritative testimony issued before the judicial police? In other words, to what extent is the judge entitled to rely on them when pronouncing the judgment, especially the conviction?

It is recognized that the officers of the judicial police overcome the tendency to detect crimes without addressing the procedures and restrictions stipulated in the law, in addition to the lack of legal guarantees for the suspect, which makes the judicial authorities look at the conditional statement issued before the judicial police with suspicion and suspicion.

First: the extent to which the conditional evidence is considered legal evidence?

Some believe that the judicial officers are not bound by the guarantees and formalities required by the laws in the preliminary investigation procedures, and they do not have to follow a certain method at the investigation stage. As a result of the non-compliance of the judicial officer with guarantees and formalities, their work does not produce evidence, the reasoning needs to be scrutinized and evaluated in order to produce the evidence, in addition to the evidence that the court draws from the final investigation.

At the meeting, the work of the judicial ombudsman in the inference phase can be the basis for discussions in the court, thus generating evidence. Evidence can also serve as the basis for a guide, while the actions of the investigative authority are within the safeguards and restrictions required by law, but are not evidence in the legal sense.

Professor Farouk al-Kilani believes that the legal evidence is derived from legal proceedings regardless of their source, whatever authority it has undertaken when authorized by law. Mr. Kilani supports his point of view by saying that article 8 of the Code of Criminal Procedure empowers the officers of the judiciary to collect The evidence as an original practice at the initial investigation stage, as opposed to the Egyptian Code of Procedure, which, in Article 21, grants judicial control officers only the power to collect evidence without evidence. Dr. Tawfiq al-Shawi argues that the evidence may be drawn from the preliminary investigation and that the evidence in the eyes of the legislator and the judge is equal, as long as the source is legitimate.

The difference between the evidence and the evidence is the value of each of the evidence. The court's judgment must be based on evidence that the crime is being committed by a particular person to convict him rather than merely an inference according to the principle of self-conviction of the criminal judge. The evidence presented to the judicial officer is evidence in the legal sense, "Article 8 and Article 159 of the Code of Criminal Procedure states that the judicial authority has the right to investigate crimes, collect evidence, arrest its agents and refer them to the courts assigned to them, and that the testimony made by the accused I have JAL police admitting to having committed an offense if the public prosecution accepted the evidence presented on the circumstances in which it Ladies, and the court is satisfied that it voluntarily and Ladies choice.

The law requires that the testimony be obtained in accordance with certain conditions. The Jordanian legislator considers the general legal basis to be necessary to raise the benefit to the rank of the legal guide, and we see the legislator to be aware of the guarantees which are not only limited to the procedures of obtaining it, As long as the law authorizes the officers

of the judicial police to take the procedures of hearing the testimony to them, which may be accompanied by the recognition of them, we see the need to be surrounded by guarantees - such as the use of a lawyer, medical examination and the right to silence - that reinforce the evidence required to be provided by the prosecution General, then in such cases, the testimony shall be considered as evidence in the strict legal sense and within the conditions that must be met in the police statement.

Second: The conditions that must be met in the police briefing

As for the evidence issued before the judicial officer in the Jordanian legislation as a result of the hearing of the suspect's testimony regarding the alleged criminal facts, Article 159 of the Code of Criminal Procedure allows the statements made by the accused to be made without the presence of the prosecutor, if the prosecution presents the evidence It seems that the Jordanian legislator gives the court the right to rely on the statement issued before the judicial officer according to a set of conditions that can be limited to:

The first condition

Article 159 of the Code of Criminal Procedure granted the court the right to be based on the judgment of the non-judicial recognition made before the judicial officer, as evidence sufficient to judge the convict of the defendant in the criminal case, provided that the voluntary, Pressure or coercion. The procedure of the legislator in this condition is due to the fact that the testimony taken in the absence of the public prosecutor is a non-judicial proceeding, and it is free when it is issued from the guarantees prescribed for the defense. The testimony in this case may be issued as a result of fear, threats and abuse of various types and forms. For a long time, especially in crimes against State security.

The second condition

To prove the circumstances in which the police were prosecuted, the legislator gave the Public Prosecution Office to prove the legality of the circumstances in which the claim was made, which took place in the absence of the Attorney General. The evidence is sufficient evidence to convict the complainant. The terms of this article are clearly stated in the text of Article 159 of the Code of Criminal Procedure where the words "... are accepted only if the Public Prosecution presents evidence of the circumstances in which it was committed. The Court is satisfied that the accused or the accused or the

complainant are voluntarily and. In addition, it is noted from the text of Article 159 that the law did not specify a specific means to prove the condition of voluntary choice. The legislator opened the door to the public prosecutor in this regard, based on the origin of the criminal cases of freedom of proof. In practice, the public prosecution proves that the complainant And a choice by inviting the officer of the judicial police to regulate the testimony in which the testimony was reported to be a witness before the court of the subject that the suspect had been made to benefit by his kindness and consent without any compulsion. Where the Court of Cassation ruled in its ruling that "if the Public Prosecutor's Office provides evidence that the testimony was taken with the characteristic nature and choice of the evidence, and this evidence is the testimony of the investigator, the testimony was characterized by the characteristic nature of the choice and as long as the court of the subject has taken this evidence, Reply.

The Court of Cassation, in this regard, repeated the same ruling, in which it ruled in a ruling: "If the Public Prosecutor's Office submits the evidence by presenting it to the witness of the prosecution, Captain Yasser, the privileged person has testified before him voluntarily and the Court of Cassation considers this case as a court subject to the State Security Court On her conviction of what is stated in the certificate and the distinguished did not submit what contradicts what is stated in the remains of evidence that he made his statements before the investigator under beatings and coercion is lacking evidence and this evidence sufficient to condemn.

However, the testimony of the arbitrator is accepted as legal evidence if the complainant does not object to it, or the court of the subject is not satisfied with the defendant's payment and his objection to the testimony of the arbitrator. This is what the Court of Cassation confirmed in a ruling: And the court is satisfied that the accused has committed it voluntarily and by choice. If the interrogator who controls the statement of the accused states that the accused was given a falsehood and an optional choice, the reliance on this testimony in the criminalization, Not breaking the law Article (159) of criminal assets, as long as the characteristic did not provide any evidence to deny the evidence of the prosecution, and prove that he was coerced when recognition.

The Court of Cassation, in its ruling, stated: "The Court of Cassation shall, in its capacity as a court subject in accordance with the provisions of Article X of the Penal Code, Of the law of the State Security Court, to exclude the confessions of the third and fourth defendants, which is the first investigation of the Anti-Narcotics and Counterfeiting Administration, as long as it is not convinced that the accused voluntarily led them to be beaten and that they were not caught with counterfeit dollars.

There is a large number of legal evidence that proves the requirement of voluntary and necessary selection available in accordance with the provisions of Article 159 of the Code of Criminal Procedure. In light of the court's ruling on the legal evidence, the court has approved some evidence, for example, Such as the complainant's certificate.

The third condition

the necessity of the court's conviction of the validity of the police statement, reassuring its truthfulness and its conformity with the truth and the reality, based on reasonable and reasonable reasons and known and specific motives. Based on this condition, the law does not equate the judicial recognition before the prosecutor with the conditional testimony before the judicial officer. For the first, the legislator assumes that he is satisfied with the choice and the court of the subject can count on it if he is satisfied. As for the police, the legislator makes a simple presumption that it is incorrect. Therefore, it requires that it be accepted as a legal proof. An additional condition is to prove that it is issued voluntarily and by choice, and it places the burden of proof on the prosecution.

The fourth condition

Logic and reason the two proper laws require that the apparent lie does not lie to the police, and that the court build its conviction and appreciation for the loss of the external environment and the circumstances for which the testimony was generated.

The fifth condition

The decision of the judgment based on the conditional statement must be made, because causing the penal judgment gives it the authority to prove it. The Court of Cassation, in several judicial rulings, emphasized the necessity of causing and explaining the sentence, especially the evidence based on the conditional statement: "If the privileged gave written and personal defense statements on the circumstances of the testimony, the State Security Court did not discuss in its decision the defense evidence, Its decision is considered to be deficient in reasoning and reasoning and in favor of revocation.

If the court of the subject wants to base its judgment on the conviction of the conditional statement made by the accused before the judicial officer, it must first and pursuant to the provisions of Article (159) to instruct the public prosecution to provide evidence of the circumstances in which they were made. If the

prosecution does not prove that the accused has admitted his innocence and satisfaction, and the court is convinced that he is guilty of this, it must exclude that confession from the evidence of his invalidity. If the court did not issue the prosecution to provide evidence of the circumstances in which the testimony was filed, The court has no right to rely on this statement unless the Public Prosecutor's Office presents the evidence of the circumstances in which it was presented, let alone the problem of this by means of the rights of the defense, which should be revoked. Judgment in addition, the legislator confers legal authority on a restricted authority by making it contingent on a condition, which is stipulated in Article (159) related to proving its release from the consent and selection. The police claim acquires power and authority as evidence in proving when the Public Prosecution presented evidence of the circumstances surrounding it. The court objected that the accused instrument was voluntary and optional. It was the authoritative evidence and conviction of the powers of the court subject.

It should be noted that the testimony when it is valid and surrounded by all the legal guarantees of the authoritative is not an argument in itself, but subject to the discretion of the judge of the subject in application of the principle of emotional conviction. The court may take it when it is satisfied with a mechanism and is convinced of it. It may exclude it when it doubts its truthfulness and its conformity with the truth and the truth, nor does the Court of Cassation have any control over the conviction of the court.

Stability in the case

In a judgment of the Court of Cassation, "and since the confession made by the accused to the police has been submitted by the prosecution to the evidence that it was carried out voluntarily and chosen by the Court of the subject and since the confession is subject to the discretion of the Court of the subject and conviction, the Court of Cassation has the right to control it in so long as the evidence in Criminal matters shall be held by all means of evidence and shall be judged by the judge according to his personal conviction. "It has the authority to convince that the confession of the distinguished counter in police investigations was not a voluntary choice and not to the Court of Cassation on this conviction.

In summary, if the conditional statement does not complete all the conditions of its argument as stated above, the judge has to present it. Otherwise, the ruling is considered null and void, but if it is updated, it is subject to its correctness and proof in the case of the court. Where it is now recognized in the jurisprudence and the judiciary that the memorization of the fact of conditional benefit is related to the facts of the case falls within the

scope of discretion of the Court of the subject, and the importance of the consequences of granting this discretion, the Court of Cassation is subject to multiple control manifestations organized by the legislator. That the memorization of conditional evidence is consistent with evidence derived from legitimate procedures, based on certainty and certainty, and finally that the criminal judge should not be judged on the basis of his personal knowledge, where the criminal court may have its faith in the light of its sentiments, Here in this regard is not absolute, but must be formed through fixed in the leaves, it is not permissible for her to adopt a rule on any evidence not put before it at the hearing.

In this regard, the Egyptian Court of Cassation pointed out that "the estimation of the value of the confession made by the accused following an invalid procedure and the determination of the relevance of the recognition of this procedure and the resultant result of the court of the subject matter are estimated by the circumstances of the case so that if these statements Issued by him correctly and not affected by this procedure may be adopted), and ruled in a recent decision also (the judge cannot build his conviction on the evidence is not fair).

The second requirement

Refusal to make conditional statements

There are no legal forms if the accused reiterates his testimony before the prosecutor and before the court, since the court can base its ruling on this testimony without questioning the claim made at the preliminary investigation stage. However, the matter is complicated when the complainant made his statement by committing the criminal facts that were attributed to him during the initial investigation stage and then he changed his police testimony before the prosecutor or before the competent court.

This is the legal value of the evidence given to the officer of the judicial police, especially in cases where the police evidence is the only proof of proof. The court can take the evidence to convict the accused, whenever the cassettes are available, even if the defendant has modified them in subsequent stages of investigation or trial.

However, the question which is based on the foregoing, is the extent of the authoritative police evidence in proving the defendant's conviction before them if he retracts this conditional statement before the court?

It is recognized that the conditional testimony is subject, in general, to the principle of the freedom of the criminal judge to form his faith, and he has full freedom to estimate its value. There is nothing to prevent the conditional benefit from condemning it, because it does not depart from being evidence in the case, Are subject

to the discretion of the judge as the rest of the evidence, but their validity depends on the confidence in the authority issued before it, the certificate of the testimony before it, the value of the record or the paper in which it was written, and the availability of the guarantees that were taken when it was issued which would give it authenticity.

And the intention is to turn away from the police evidence of the defendant's return to the statements made before the judicial officer, may be a proof of the lie of the accused, may be evidence of sincerity, and that the testimony issued by him was the result of coercion or pressure from the judicial officer ... etc. Then the criminal judge has to ascertain who he believes to be, to testify or to turn away, where some believe that the first step is not always valid, for the possibility that the testimony may be a result of coercion, and the reason for the reversal may be due to the fact that the confessor wanted to confess to the rescue of a loved one.

While the French and Egyptian laws stipulate that conditional statements are not an argument in themselves and are always subject to the discretion of the court, the accused can turn them down, without having to prove that the conditional statement was not correct. Anglo-American countries differ in their view of the renunciation of the conditional benefit according to the stage in which they were issued. The Soviet Union stripped the police of every legal value once it was repudiated. The rule is based on what is going on in the session only, not on preliminary investigations, T previous police have.

However, the legislator in general has subjected the criminal evidence to the principle of discretionary power and the emotional conviction of the criminal judge, but by analyzing the text of the second paragraph of Article (216) of the Code of Criminal Procedure The meaning of the phrase "if it considers otherwise" means that the legislator granted the court the power to take statements or to turn away and to hear the other evidence. This is due to the court's confidence and conviction. Estimate the value of this reverse, he may ask police to benefit amended by the defendant, or take out if it does not convince honestly reverse, Valet license or validity of the willing, he moaned and justice practiced and did not want to remain on the testimony of police.

The Jordanian Court of Cassation affirmed the possibility of the court of the subject to rely on the conditional statement, despite its abstention. In its decision No. 849/1999, the court stated: "If the two defendants have testified before the police, the court has taken these two statements as convicting the defendants of their And without coercion or pressure, the return of the accused of these statements does not change anything, especially as the defendants did not provide any evidence of what they claim about the validity of their statements when investigated by the investigator police officer.

However, the question of refusing to turn away from the conditional benefit is not taken for release. It may be that the waiver of the conditional benefit is truth and reality, and vice versa. What is the effect of this objection on the legal status of the complainant before the criminal judge?

First: Restrictions on the waiver of conditional statements.

The refusal to make conditional statements is one of the most pertinent issues relating to the authority to make use of the criminal evidence in general, so we call upon the Jordanian legislator to restrict the freedom of the criminal judge when considering the following restrictions:

The need to cause the complainant to disqualify him from his police statements in a logical and realistic manner.

It is recognized that the complainant is not obliged to provide evidence of his innocence, and is not obliged to prove the incorrectness of the conditional statement, but the legal logic requires that the judge ask the owner of the complainant - who has changed his police testimony - the reason for this repudiation and justification and his behavior It is necessary toThe accused shall indicate a serious and realistic reason for his dismissal until such a redress is taken into consideration. Justifying the complainant for his dissolution shall assist the court in the search for the sincerity of the objection and finding a justification for it if any.

The second limitation

The conformity of the waiver of the conditional benefit of reality and truth

As soon as the complainant retracts his testimony before the criminal judge, it is incumbent on the judge to ascertain whether or not he has the right to make the conditional statement and to implement this obligation. It is necessary to assess the compatibility of the waiver and its conformity with reality and the circumstances surrounding the criminal facts that are primarily attributed to the defendant.

Among the reasons that indicate the sincerity of the ablation if they match reality, that is to provide some facts that exclude the crime from the person of the complainant, as if the withdrawal of the conditional benefit of the complainant recognized the fact of burning a person's house in a certain way, and proved the expert cannot put the fire In the manner mentioned by the confessor of his police testimony, as well as the recognition of his police testimony as a murder for the sake of protecting others, and his justice, which agrees with the fact that he was in another country away from the place of crime. Or to confess his police testimony to commit a sexual crime, and to refuse to confess before the criminal judge, and it turns out that this objection

corresponds to the reality of the complainant by presenting a medical certificate proving his sexual impotence.

The third limitation

The necessity of causing the court to take it away from the conditional benefit or to ask it. It should be noted that the power of the criminal judge to assess the authority of the police statement or to withdraw it is not absolute, but requires the court's obligation to indicate in the case of the defendant's retraction of his police testimony or denial in the final judgment and the reason for not taking it into disobedience or denial, The hero of the referee for the defect of non-causation.

Second: the effect of waiving the conditional benefit on the legal status of the complainant

The criminal judge has the right to dismiss and exclude the conditional statement. He has the right to reject the objection and to rely on the conditional statement, which in both cases is issued only by his conviction and without any censorship by the Court of Cassation. Two cases are:

The first case

The response of the opposition and the support of the conditional statement

It is not necessarily necessary to turn away from the conditional police statements. As a result, the court of the matter does not have to rely on it. If it is proved that the motive behind the abluion is the character of evasion, the gesture and the distortion of truth and excitement or gestures, and the previous facts that were acknowledged by the police statement are convincing and correct. Reasonable and acceptable reasons, the availability of all the conditions and conditions of recognition of the correct acceptable and the availability of all the conditions that would give the legitimacy of the conditional benefit does not pass by this idleness and does not prove the value of him and does not affect the facts that he recognized. As a result, this does not affect the legal status of the complainant, which leads to his conviction on the basis of his conditional testimony of her legal shield in the criminal evidence.

The Jordanian Court of Cassation affirmed this in its decision No. (14/1985), which ruled that: "The return of the accused for her confession does not oblige the criminal court to take advantage of the crime in which the crime was denied. The Criminal Court has the power to take the evidence to which it feels comfortable.

Recognition of the distinctive Viton conviction derived from the evidence in the fixed suit also does not prejudice the validity of this conviction the absence of a tattoo of powder in the place of injury.

It is worth mentioning that the testimony of the arresting officer is accepted, even if the complainant changes his confession, and if the testimony of the person making the confession cannot be invalidated, the court of cassation ruled in its ruling that: "If the confession taken by the State Security Court is from previous facts, The court found that the court of cassation as a court was not honest and was not free and unconvincing. In particular, the interrogator did not testify before the court that the accused had confessed to his confession and his choice. ... and that the confession of the accused to the investigator in the combat department Drug Aqaba was not an act of free will, which requires him not to Alana and scarves gallery evidence .

The second case

Taking the oath and responding to the conditional statement.

The court's conviction of the defendant's innocence of his statement of police means that he does not take credit for the benefit he received from him in the past. When the aforementioned restrictions are met, the previous conditional statement must be answered. (339/1994), which states: "Any accused shall have the right to invoke a new second, and the court of the subject has the power to take advantage of the welfare of its conscience ...

RESULTS

The Jordanian legislator did not equate the stage of inference with the subsequent procedural stages, despite the importance of this phase in the criminal case. It must therefore be covered by a conditional set of conditions and controls to provide the legal authority to accept them as proof of proof in the criminal case.

The legal justification is clearly the legal meaning of article 159 of the Code of Criminal Procedure, which is a non-judicial procedure. It is issued outside the Judicial Council and the legislator has authorized the judiciary to rely on it according to the principle of self-conviction of the criminal judge. Doubts about it, being issued before an authority that does not have adequate safeguards for the complainant.

The Jordanian legislator has granted the police evidence conditional authority by making it contingent on a requirement that the public prosecution be obliged to provide the legal evidence on the circumstances of the confession, the court's conviction of this evidence, and that the confession was made voluntarily and by choice.

The scope of the discretionary power of the subject court is that the Court of Cassation is subject to a multi-faceted control, which has been regulated by the legislator, inter alia: that the police evidence is consistent with evidence derived from legitimate proceedings, If the criminal judge does not judge according to his personal knowledge, since the criminal court may have its faith in the light of its sentiments, its authority in this regard is not absolute. It must be composed by means of a constant in the papers. It is not permitted to base its judgment on any evidence. Was not brought before the session because the authoritative evidence and conviction of the powers of the Court of the subject.

RECOMMENDATIONS

After completing this study, thank God, we make some modest recommendations that we came out with, as follows:

1. In view of the failure of the Jordanian legislator to address the issue of conditional testimony as evidence in criminal matters specifically in independent articles of the Code of Criminal Procedure, we wish our honorable legislator to regulate the provisions of the police statement directly and extensively with clear and specific legal provisions. As evidence in the criminal case.
2. The necessity of expanding the suspect's right to grant him guarantees to protect his freedom and his will in the process of inference.
3. We call on the Jordanian legislature to explicitly stipulate the terms of the police statement and its restrictions if they are rejected at the trial stage, because they have an effect on the legal status of the complainant in general and on the authority of police testimony in particular.
4. We call on the Jordanian legislator to consider preventing the suspect from exercising his right to remain silent before the officers of the judicial police, not forcing him to speak openly, and to consider otherwise a fundamental flaw, which invalidates the procedure of hearing the statement and what it issues. Article (7) of the Jordanian Code of Criminal Procedure states that: "The procedure shall be null and void if the law expressly provides for its invalidity or a material defect, for which the purpose of the action was not achieved." Because of the damage to the interest of the suspect before the authority of inference, and this is confirmed by the Jordanian Court of Cassation in order to invalidate the damage, in many of its decisions.
5. We call upon the Jordanian legislator to provide for his assistance in obtaining the assistance of a lawyer in the inference stage because it plays a role in proving the integrity of the police statement when the suspect has made it before the judicial police. We believe that the two

6. Stages of inference and preliminary investigation should be reconciled.

7. We call on the Jordanian legislator to report the medical examination to the complainant immediately after hearing his testimony at his request or the request of his family is the most appropriate means of statement of the circumstances of the police statement, and that they took it within the scope of legality when the result of the medical examination has confirmed that it is free of any injuries or injuries At this stage.

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