



The supreme council for the public employment service is an advisory body affiliated with the public service

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Abstract

This study aims to highlight the importance of the supreme council of the public employment as a body of consultation and proposal, which the government rely on to determine its policies about the draft legal provisions relevant to the public employment service, as well as for giving appropriate solutions to the consulted subject. The order n°06-03 came to support the method of participation and dialogue. In addition, to make such an important and necessary principal in managing the public employment affairs. Thus, throughout giving employees the opportunity to contribute in managing their career of fans and organizing their professional life, that's due to the job authority, the supreme council of public employment service.

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1. Introduction

The civil service law is considered to be one of the branches of administrative law; because It regulates legal relations in the field of the most vital and important areas for the state, and given that it defines the frameworks used to organize the public office, given that public officials in the administrative apparatus of any state are a distinct group whose members work in the name of the state and for its account to achieve the public benefit, it is natural for the state to have a formal and written legal system that defines The legal position of the range of public employees in terms of their appointment, determining their salaries, allowances and promotions, as well as reprimanding them and the method of terminating their service. The official system sets out and determines the bodies that can intervene to well apply the regulation.

As well as engaging in the public service , although it is characterized by permanence, but it is not eternal, so the service of employees must end in one way or another, which requires the availability of certain controls, and accordingly the work of the Algerian legislator since independence is abundant with these guarantees, and he proceeded to establish the organs or structures designated for the structured public service within Administrative departments that take upon themselves the responsibility of conducting affairs The general basic law of the new public office included many elements and principles of effectiveness, sufficiency and rationality in performance, and it also

included many methods of organizational development for the Algerian administration towards the best and modernity. General.

The importance of this topic lies in clarifying the composition and structures of the Supreme Council for the Public Service, and highlighting the most important gaps that befell it. This study also aims to provide recommendations that help develop and develop the professional life of the public employee. Therefore, we ask the following question: How did the Algerian legislation organize the Supreme Council of the Public Service? Was it approved in granting this apparatus the necessary composition and authority to perform its tasks in improving public service and working conditions?

With the aim of answering this question, we follow the descriptive and analytical approaches by presenting the Algerian legal texts, which were exposed to clarifying the formation of the Council, its organization, its functioning, and its specializations, and addressing them with explanation and analysis, using the jurisprudential opinions in this regard particular.

Accordingly, this research is based on two main points: the organizational framework of the Supreme Council of the Public Service, and the functional framework of the Supreme Council of the Public Service.

2. The organizational framework of the Higher Council of Employment

Through the organizational framework, we address the human composition of the Council, its structures and the way it operates.

2.1 The human formation

In this formation we find the head of the Supreme Council of Employment and the members.

2.1.1 The headmaster

The Supreme Council of Public Service is chaired by the Prime Minister or his representative, based on a mandate, and this is what is stipulated in Article 2 of Executive Decree No. 17-319, which defines the composition, organization and functioning of the Council (**Executive Decree No. 17- 319 of November 2, 2017, p. 08**).

And in Order 66-133 in Article 2, the head of the Supreme Council of Public Service was also assumed by the head of government or the minister in charge, and the authorities did not consider it necessary to adapt this formation to the political developments resulting from the 1989 and 1996 constitution, especially those related to partisan and trade union pluralism, as a result of the freezing of the powers of this body since the early seventies.

Nor was it mentioned in Law No. 78-12 containing the General Basic Law for the Worker (Law No. 78- 12 of August 5, 1978), nor in Decree No. 85-59 containing the Model Basic Law for Workers of Public Institutions and Administrations, (**Decree**

No. 85-59 of March 23, 1985) Evidence of re-consideration of this basic body in building the public office (**Kharfi Al-Hashemi, 2006, p. 51**).

2.1.2 Members

The Supreme Council of Public Service is composed of:

Representatives of the central administrations in the state, public institutions, regional groups and trade union organizations of salaried workers are the most representative at the national level in the provisions of Law No. 90-14 related to the modalities of exercising the trade union right (**Law No. 90-14 of June 2, 1990, p.765**), and it also includes personalities who are It is chosen for its competence in the field of public service, and the composition, organization and functioning of the Supreme Council of Public Service is determined by regulation. On the basis of that, Executive Decree No. 17-319 was issued showing the composition and functioning of the Supreme Council of Public Service. The Supreme Council of Public Service is formed in addition to the president of twenty-five (25) A representative member according to its third article.

2.2 The structures

and the structures of the Supreme Council of the Public Service in the current Law of the Public Service Order No. 06-03 supplemented by Law No. 22-22 according to Article 60 of it are as follows:

2.2.1 Central administrations in the state

The central administration of the state is represented by the Supreme Council of the Public Service with twelve (12) personalities, where we find ten (10) ministers, and two (02) with the rank of director general, and this is as follows:

-The Minister in charge of the Interior and Local Communities Minister in charge of justice;

- The Minister in Charge of Finance;

- The Minister in charge of National Education;

- The Minister in charge of higher education and scientific research;

The Minister in charge of vocational training and education;

- Minister in charge of information and communication technology;

-The Minister in Charge of National Solidarity;

-Minister in charge of health and hospital reform;

- The Minister in charge of work;

- Director General of the Public Service;

- Director General of the Budget at the Ministry of Finance (**Order No. 06-2003 of July 15, 2006 , p. 07**).

Note from this text is that the Ministry of Finance Represented by two personalities: the Minister of Finance and the Director General of the Budget, so the Minister of Finance should be replaced by the Director General of Finance and the Director

General of the Budget should be kept in the same ministry. As for the rest of the above-mentioned ministers, they must be replaced by other members such as: the Inspector General of the Ministry or the Director General of Human Resources in the Ministry, and this is in order to Giving administrative priority over the political on the one hand, and making field experience the dominant one in the formation of the council on the one hand On the other hand.

2.2.2 Public institutions

Public institutions are represented by the Supreme Council for the highest position by three (03) personalities, namely :

- A university director based on a proposal from the minister;

-The person in charge of higher education is the director of a public institution of a scientific and technological nature based on the proposal of the Minister in charge by scientific research;

- Director General of the National School of Administration.

Through this article, we note the following:

- Representation of the university in the council with one director who is appreciated because of the leading role it plays in society. However, the suggestion of this member from the Minister of Higher Education and Scientific Research is not appropriate, so we hope that he will be chosen by election from among all directors of universities and university centers, provided that elections are held

and how to run for membership of this council by adopting a digital platform prepared by the Prime Minister.

- The public enterprise of a scientific and technological nature, as stated in the text of Article 6 of Law No. 15-21 of December 30, 2015 containing the Directive Law on Scientific Research and Technological Development, is the legal pattern for public enterprises applicable to scientific research institutions that enjoy moral personality and financial autonomy in accordance with The specificity of its tasks (**Law No. 15-21 of December 30, 2015, p. 07**), and the appointment of one representative on the proposal of the Minister of Higher Education and Scientific Research and not based on the proposal of the Minister of Scientific Research as stated in the text because the Ministry of Higher Education and Scientific Research has one minister and not two

-The professionalism of the text requires the appointment of a university president, not the director of a high school, the director of a university center, or the director of a national institute, because if the legislator wanted that, he would stipulate the appointment of a director of a public institution with a scientific , cultural and functional character.

-Two new members should be added. The first is appointed from the National Higher Schools, chosen by digital election, and in the same manner as the university rector is chosen for the membership of this council. The second is the general director of neighborhood public health.

2.2.3 Regional Communities

The number of members representing regional assemblies at the Higher Council of Public Service is limited to four (04) personalities proposed by the Minister of Interior and Local Communities, who are the president, the head of a state popular assembly, and 02 two heads of the municipal people's assembly. It would be preferable if they were chosen by election, so appointing these members based on a proposal from the Minister of Interior would have a kind of loyalty to the selected party.

It is also desirable to increase the number of heads of the Municipal People's Assembly compared to raising the number of municipalities in Algeria, as representation by two members is considered very little.

2.2.4 The labour union organizations of salaried workers

That are the most representative at the national level are the trade union organizations of salaried workers The most representative at the national level in public institutions and administrations is represented by four (4) members proposed by the Minister in charge of labour, and a problem arises here about the method of their appointment, which is by the Minister of Labour, who in turn is a member of this council and this in our view is inappropriate, so how can he propose who is a member In the composition of the council, let us not forget that it may hinder the access of some organizations to this council, especially those that oppose the

government or the policy of the Ministry of Labour, Employment and Social Security. Therefore, it is advisable to put in place other mechanisms for their appointment, including resorting to the method of election. Every union that has a wide representation in public institutions and administrations It has the right to elect one of its national members and send the results of the proposal directly to the Secretariat of the First Ministry to be appointed later.

2.2.5 The personalities who organize it are chosen basing on competence in the field of public service

The Supreme Council of Public Service includes two (02) personalities who are chosen for their competence in the field of public service and are appointed by the Prime Minister, and this is what was included in the last paragraph of Article Three of the same Executive Decree mentioned above No. 17-319.

This text was general, requiring competence in specialization, and it did not indicate the authority that proposes these two personalities to the Prime Minister. Are they chosen from the university doctors with speciality ? Or from the staff of the central administration? or from employees National School of Administration or staff General Directorate of Public Service? or from other sides ?

2.3 Functioning of the Supreme Council of Public Service

The Supreme Council of Public Service meets in an ordinary session once a year, and it can meet in an extraordinary session based on a summons from its president.

The agenda for its meetings is set by its president, and this is what Article 7 of the Executive Decree No. 17-319

In light of Decree No. 66-142, it used to meet at least twice a year (**Decree No. 6-142 of July 15, 1966, p. 569**) according to Article 8 thereof, and this from our point of view is due to the recent independence of Algeria Which inherited from France exhausted public institutions and administrations and frameworks that count on the fingers. Therefore, the inevitability of the circumstance and the reality of the public office imposed on the state the establishment of a higher council for the public service and imposed on it that it meets at least twice a year and in normal circumstances, and this is with the aim of advancing and developing the public service.

-What is noted on the text of Article 7 of the Executive Decree of 2017 is that the meeting pattern is annual (once a year in normal circumstances; as for the pattern of meeting under Article 7 of Order 66-133, it is at least hexagonal in normal circumstances because the text of Article 7 came with the expression At least twice, and this is something in itself positive, so it should be recognized that the meeting of the Supreme Council twice a year and frequently is an inevitable necessity if we want this council to be an appeal body.

-It is also noted that there is no provision for the headquarters of the Council, which is the place where the Supreme Council holds its meetings. Does it meet at the headquarters of the Prime Minister, or at the headquarters of the General Directorate

of Public Service, or at the headquarters of the National School of Administration, or in another place?

The aforementioned Executive Decree No. 17-319 also did not indicate how the process of deliberations that take place at the conclusion of the agenda of the Council's meetings should proceed in order for it to be valid, in contrast to Decree No. 66-142 which stipulated in Article 07 Paragraph 02 the necessity of the presence of two-thirds of the members of the Council in order for the deliberations to be correct (**Decree No. 1426 of June 2, 1966, p. 568**).

The Article 8 of the same decree states: "The Supreme Council of the Public Service deliberates on issues related to its tasks, as specified in Article 59 of Order No. 06-03 mentioned above, while the second paragraph of the same article states: The decisions, opinions and directives of the Council are recorded on the" Record of deliberations".

In order for this article to become meaningful, a third paragraph should be added stating that a certain legal quorum must be reached.

3. Functional framework of the Supreme Council of public Employment

Through it, we discuss the advisory function of the Supreme Council of Public Service, and the nature of the advisory opinion released by it.

3.1 The advisory function of the Higher Council of Public Service

The Higher Council for the Public Service, according to Article 59 of Order No. 06-03, is tasked with controlling the major axes of the government's policy in the field of public service, defining the policy of training employees and improving their level, and studying the employment situation in the public service on the quantitative and qualitative levels, not to mention ensuring respect for The rules of ethics of the public office, and suggesting every measure that would promote the culture of the public service.

As it is consulted on every draft legislative text related to the civil service sector (**Order No. 06-03 of July 15, 2006, p. 07**).

Thus, we find that the Supreme Council for Public Service, as the highest administrative advisory body in the system of public service law in the Algerian system, is not only concerned with studying individual and subjective issues of public servants, but rather is concerned with studying and expressing an opinion on issues of a general nature that concern all categories of public officials which fall under the Basic Law of the public office related to the conditions and affairs of public workers who are governed by the general basic law of the public service in the state (**Boudiaf, Ahmed, 2012, p. 301**).

And the Supreme Council for the Public Service under Order No. 1336 - the purpose of its establishment was to multiply information centers and enlighten the government's policy pursued in the field of public service (**Al-Jawhari Abdel Aziz Al-Sayed, 2010, p. 369**). It is also concerned with purely advisory powers, as it is one of the non-judicial agencies involved in the

field of public office, with the right to express an opinion on issues that have been referred to it by necessity and which are related to the provisions of the violation of the general basic law of the public service and all laws related to it, and with regard to the powers and competencies of the Council towards employees and public servants. To study issues of a public nature through its members, or through the minister in charge of public office by virtue of a decree (**Order No. 66-133 of Safar 18, 1386, p. 544**).

According to Decree No. 66-142 of Safar 12, 1386 corresponding to 02, the Council was distinguished by three types of advisory positions:

- Every issue of a general nature of concern to employees can be referred to him,
- He is consulted in some cases, necessary, in violation of special basic laws of the provisions of the general basic law,
- He can make recommendations on every issue of concern public office (**Decree No. 142_66 of June 02, 1966, 568**).

As for the Model Basic Law for Professionals Workers Departments and Institutions No 85-59 of March 23, 1985, completely neglecting the provision of the Supreme Council of the Public Service as the highest advisory body that works to achieve a balance between the requirements of management and the individual interests of employees. (**Muqaddam Saeed 1985, p. 133**).

It is clear that Ordinance No. 06-03 brought something new with regard to the Supreme Council of the Public Service,

compared to Order No. 66-133, where we find that the legislator has given great attention to this body and it has been rehabilitated through the role entrusted to the Supreme Council of Public Service, in order to activate the performance of the job role. Public service, which is reflected in the allocation of an entire chapter to the Supreme Council of Public Service containing four (04) articles from Article 58 to Article 61 there of (**Order No. 06-03 of July 15, 2006, pg. 7, supplemented by Law No. 22-22 of December 18, 2022**) dealt with its definition and clarification of its powers and formation, and this is in contrast to what was in Order No. 66-133 related to public office, as it was regulated by only one article, and on the other hand, we find that the legislator in the old law had contented himself with stipulating the establishment of the Supreme Council and highlighting the president of the council and his capacity with mentioning the possibility of referral On the board every issue of a nature that concerns employees.

And with the issuance of Ordinance No. 06-03 containing the General Basic Law of the Public Service, through which the Algerian legislator rethought the need to establish this apparatus in order to watch over the ethics of the public service and thus emphasize new values such as neutrality, for example, and integrity in the application of laws and regulations, he came to do what The role of the authority, by expressly stating that it is a consultative body and stating its advisory powers under Article 59 of it, which powers include controlling the major axes of government policy in the field of public service, and the important thing is the need to consult it in

every draft legal text related to the public service sector in addition to its role in preparing Annual reports on the status of the civil service, which he submits to the President of the Republic (**Redha Mehdi, 2016, p. 29**)

3.2 The nature of the advisory opinion issued by the Higher Council for the Public Service

All the competencies of the Higher Council for the Public Service in Algeria are considered competencies But it remains a non-compulsory counselling, they had better make it constitutional like all the other counselling bodies to be more efficient.

Purely advisory therefore the functions and competencies of the Supreme Council of the Public Service are limited to studying and researching the elements and components of the general policy of the public service in Algeria and providing recommendations, opinions, advice and guidance and presenting them to the executive agencies and bodies that have the capacity to take the final decision and the mechanisms, so functions and the recommendations of the Supreme Council of the Public Service are not binding on the administrative agencies and authorities Competent to issue final and final decisions in the field of public office in Algeria, unless these authorities and agencies adopt them and formulate them in final and binding laws and decisions.

So, the Supreme Council of Public Service became an administrative advisory body in the Algerian administrative system.

Thus, the request released by the Council is considered optional, except in the case of some special basic laws, where we find that the cancelled Order No. 66-133 in Article 4 of it expressly stipulates that the advisory opinion must be given if the matter is related to violating the provisions of the general basic arts of the public office, which are expensive. This is for the benefit of the staff of the National Security, Civil Protection, Education, Diplomatic Service and Local Collectives (**Order No. 66 -133 of June 02, 1966, p. 547**).

4. CONCLUSION

The method of participation and conversation is an important principle in the conduct of the affairs of the public office, and this is what was stated by both Order No. 06-03 and Executive Decree No. 17-319, and this is by giving the opportunity to employees to contribute to the management of the affairs of the position and also to contribute to the organization and conduct of their professional lives, and this is from During the Supreme Council of Public Service.

After our study of this subject, we reached the following conclusions:

1- The Higher Council for the Public Service constitutes a consultation and proposal body that the government relies on in determining its policies in the field of public service. On the other hand, the Council is consulted on draft texts related to the civil service sector.

2 - Since the revival of this advisory body in 2006 and the issuance of the executive decree of 2017 that defines its formation, organization and functioning, however, it has not held any meeting because it is still a dead letter due to the lack of issuance of the decree that appoints its members, and this is completely unacceptable.

3 - The speciality Supreme Council of the Job Public service in Algeria is of an optional nature, i.e. non-declaratory, because it issues non-binding recommendations to the competent administrative authorities.

4 - Granting the Supreme Council of the Public Service all the powers in order to carry out its tasks. We even devised an apparatus that is superior to the General Directorate of Public Service itself, but without having an actual and real authority in Practical reality, and this is the essential of the defect that it has touched since its inception.

5- The formation of the Supreme Council for the Public Service did not take into account the conditions of integrity, competence, merit and specialization in selecting its members. Almost half of its members are ministers who do not understand the modernization and modernization of administration as much as they care about blind political loyalty to those who appointed them, because whoever abandons his party slaughters his ideas with his own hand, and whoever slaughters his ideas is like someone who does not mind.

6- The inequality in the composition of the Supreme Council between representatives of the administration and representatives of employees (four members from trade union organizations only), and this matter makes it a purely administrative apparatus that does not amount to a space for consultation, expression of opinion, and putting forward scientific and forward-looking visions for the advancement of public service to a better level.

Through our findings, the following suggestions are made:

1 -The Higher Council for the Public Service constitutes a consultation and proposal body that the government relies on in determining its policies in the field of public service. On the other hand, the Council is consulted on draft texts related to the Public Employment Sector. However, it remains non-mandatory. It would be preferable if it were to be made more effective, like structured advisory bodies.

2- Before expediting the appointment of the members of the Supreme Council for Public Service, Executive Decree 17-319, which defines its formations and organization, should be reviewed. This revision should smooth out the composition and Competences

3-The Higher Council of the Public Service in Algeria must, when holding its first meeting, prepare its by-laws that set its method of work and the rules of conducting its meetings .

4- The meetings of the Council should be periodic and regular, and we prefer that they be twice a year without prolonging the periods of its sessions.

5- The Supreme Council of the Public Service does not have a headquarters of its own, and this prevents the exercise of its duties in a respectful and decent manner. Faced with this situation, we believe that it will hold its meetings either at the headquarters of the General Directorate of the Public Service as it holds its trust, or at the headquarters of the National School of Administration, as is the case in Morocco.

6- Reconsidering the terms of reference of this council, which are characterized by generality and a large number of tasks, and this can only be done by checking and defining them in accordance with the update of the administration, whether those in which expressing an opinion is advisory as a notification, recommendations and advice body, or those in which it expresses a mandatory opinion, especially those related to violating the provisions of The general basic law of the public service in accordance with the provisions of the laws.

7- The necessity of issuing an executive decree specifying the modalities for electing representatives of public institutions, regional groups, and employee representatives in the Supreme Council of Public Service, by activating the mechanism for accepting nominations and conducting elections by adopting balloting. direct digital.

8- It is desirable to find a permanent headquarters for the Supreme Council of Public Service, similar to some other national councils, with the necessity of providing material and human means to enable its members to exercise their duties in comfortable conditions.

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