

The National Civil Society Observatory

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Send Article Date: 07 /01/2022 Date of acceptance of the article: 22/02/2022 Publication date:
04/06/2022

Abstract:

The 2020 constitutional amendment introduced new organs in its fifth title relating to advisory organs, among them we find the National Civil Society Observatory.

This study comes to show the importance of The National Civil Society Observatory towards its composition and missions.

Key words: National civil society, civil society, democracy, Constitution.

Résumé:

La révision constitutionnelle de 2020 a introduit de nouveaux organes dans son titre cinq ou figure l'observatoire national de la société civile.

Cette étude vient montrer l'importance de l'observatoire à travers sa composition et ses missions.

Mots clefs : L'Observatoire national de la société civile, la société civile, démocratie, Constitution.

Introduction:

The 2020 constitutional amendment introduced new organs in its fifth title relating to advisory organs, among them we find the National Civil Society Observatory¹.

The Observatory is an advisory body, placed under the President of the Republic. it is a framework for dialogue, consultation, proposal, analysis and

¹ Presidential Decree N° 20-442 of 15 Jumada El Ouwla 1442 corresponding to 30 December 2020, concerning the issuance of the constitutional amendment, ratified by referendum of the first November 2020 in the Official Journal of the People's Democratic Republic of Algeria , Official Journal N° 82 of 15 Jumada El Ouwla 1442 corresponding to 30 December 2020.

The referendum on the constitutional amendment was held on Sunday, the first of November, 2020 by Presidential Decree N° 20-251 of 27 Muharram 1442 corresponding to 15 September 2020, including the call of the Electoral Commission for the Constitution amendment, Official Journal N° 54 of 28 Muharram 1442 corresponding to 16 September 2020.

foresight on all questions relating to civil society and the promotion of its action. The Observatory has legal personality and financial autonomy. The seat of the Observatory is located in Algiers².

This organ comes to reinforce the role of civil society in society. We will show through the decree governing the observatory its composition and operation. The following question can be asked:

How the Presidential decree n ° 21-139 did organize the National Civil Society Observatory?

Methodology used: Replying to the research question we will use the descriptive approach by studying the contents of the Presidential decree related to the National Civil Society Observatory

General Division of the study:

The topic will be dealt with through four titles; the first is about the composition of the National Civil Society Observatory (**Title 1**), the second talks about the missions of the Observatory (**Title 2**), the third is about the functioning of the national civil society observatory (**Title 3**), and the last one concerns the organization of the Observatory (**Title 4**)

Title 1: The Composition of the National Civil Society Observatory

We will see in this title the composition and modalities of appointment of members of the national civil society observatory (**Chapter 1**), the mandate of the members (**Chapter 2**), the Protection and the principle of reserve of the members of the Observatory (**Chapter 3**).

Chapter 1: The composition and modalities of appointment of members of the national civil society observatory

The Observatory is made up of the president appointed by presidential decree, from among national powers and fifty (50) members, on an equal basis between men and women, distributed as follows:

1- Thirty (30) members from among associations, including ten (10) members from national associations and two (2) members from recognized associations of public utility;

2- Eight (8) members among the national skills of civil society, including four (4) representing the national community abroad, chosen by the President of the Republic among the skills in the field of intervention of the office ;

²Article 2 et 3 of the Presidential Decree n° 21-139 of 29 Chaâbane 1442 corresponding to 12 April 2021 relating to the national civil society observatory, JORADP n° du 6 Ramadan 1442 corresponding to 18 April 2021 ;

For more read about democracy, civil society and elections see:

د. بن حمودة ليلي، الديمقراطية ودولة القانون، دار هومة للطباعة والنشر والتوزيع، الجزائر، 2014

3- Twelve (12) members representing unions, national and professional organizations and all other civil organizations and bodies³.

The Thirty (30) members among the associations as well as the Twelve (12) members representing trade unions, national and professional organizations and all other organizations and civil bodies are chosen by an ad hoc committee, composed of:

- The president of the Observatory, president;
- The president of the High Islamic Council or his representative;
- The president of the National Economic, Social and Environmental Council or his representative;
- The director general of the Algerian agency for international cooperation for solidarity and development or his representative;
- The director general of the national institute for global strategy studies or his representative; - the president of the National Human Rights Council or his representative;
- The national delegate for child protection or his representative⁴.

For the accomplishment of its mission, the committee may refer the matter to the authorities concerned with a view to obtaining any information or document. It can also resort to any useful consultation. The committee meets on the initiative of its chairman, whenever necessary.

It takes into consideration in the choice of the members mentioned, the different fields of activity, the operational activity in the field, the coverage of the whole of the national territory, the parity with the young people in each category composing the Observatory and the 'alternation in the composition.

He is considered young in this sense, anyone under the age of forty (40) years. Knowing that no more than one person can be chosen from the same association, union, organization or institution. In addition, new members cannot be chosen, for two (2) consecutive terms, among associations, unions, organizations or institutions whose terms of reference have expired⁵.

Chapter 2: The mandate of the members

The mandate of the members of the Observatory is four (4) years non-renewable by decision of the President of the Observatory and the composition of the Observatory is renewed by half, for each category of members, every two (2) years, in accordance with the terms and conditions set in the observatory's internal

³ Article 6, Ibid.

⁴ Article 7, Ibid.

⁵ Ibid.

Knowing that "The ad hoc committee may establish additional criteria in addition to those provided for in Article 7":

regulations, taking into account the selection criteria set out in Articles 6 and 7 of Presidential Decree No. 21-139⁶.

According to article 9 of the same decree Membership of the Observatory is only lost in the following cases:

- a) The expiration of the mandate;
- b) Resignation;
- c) exclusion due to absence without valid reason from three (3) consecutive meetings of the sessions and five (5) consecutive meetings of the work of the committees;
- d) Loss of quality by virtue of which he was chosen at the Observatory;
- e) Conviction for willful felony or misdemeanor incompatible with the missions of the Observatory;
- f) Death;
- g) Any serious act or behavior incompatible with the obligations incumbent on members of the Observatory⁷.

The quality of member of the Observatory is incompatible with the exercise of function of member of the Government, of a function within the management bodies of a political party, or of quality of member in the elected popular assemblies and entails the loss of the quality of member of the Observatory and in the event of loss of the quality of member of the Observatory, he is replaced for the remainder of the mandate in the forms and conditions that presided over his appointment⁸.

Chapter 3: Protection of members of the national civil society observatory and the principle of reserve

In the performance of their duties, members of the Observatory are bound by the obligation of secrecy and the secrecy of deliberations. They must refrain from taking any position or behaving incompatible with the missions assigned to them. To facilitate the exercise of their missions, the president and members of the

⁶ According to article 39 of Presidential Decree No. 21-139 For the first renewal of the membership of the Observatory, the members to be replaced will be identified by drawing lots. The drawing of lots is carried out by the Observatory, meeting in plenary, three (3) months before the date of renewal, in accordance with the terms set out in the Observatory's internal regulations. According to the article. 20 of Presidential Decree No. 21-139, the mandate of a member of the Observatory is voluntary. The costs of accommodation, meals and transport for members of the Observatory are borne by the latter, for the duration of the sessions and / or the work of the committees and the working sessions to which they are convened. They also benefit from mission expenses, if they are associated with missions ordered by the President of the Observatory, in accordance with the regulations in force.

⁷ According to article 9 of Presidential Decree n ° 21-139, in the cases provided for in c), e) and g), the decision of dismissal is taken by the Council of the Observatory by an absolute majority of the members of the Observatory.

⁸ Article 10 et 11 , Ibid.

National Civil Society Observatory benefit from all the facilities for the exercise of their missions.

They freely express their opinions during the work of the Observatory and its organs and they benefit from the protection of the State against pressure, threats, insults, defamation, or attacks of any kind whatsoever, which they may in be subject during or during the exercise of their mandate⁹.

Title 2: The missions of the national civil society observatory

According to the article 4 of the presidential decree 21-139, “The Observatory contributes to the promotion of national values, democratic and civic practice and participates with other institutions in the achievement of national development objectives. It issues opinions, recommendations and proposals on the situation and concerns of civil society and the mechanisms for strengthening its role in public life. Its missions are also:

- to assess and promote the performance of civil society in the light of society's needs and available possibilities and to propose a global conception of its role in sustainable national development and to identify the obstacles that prevent its active participation in public life and to notify the competent authorities thereof and to undertake any action capable of promoting its activity;

- to issue opinions, recommendations and proposals in the field of promoting the participation of civil society in the development and implementation of public policies at all levels, in accordance with a participatory democratic approach and to advise the various actors of civil society in order to strengthen their own capacities in the field of field work;

- to contribute to the establishment of the bases of consultation between all the actors of the civil society and the public authorities, to make of the civil society an effective actor in the sustainable national development and to participate in all the actions initiated by the public bodies and institutions in relation to the activity of civil society;

- to study the means of participation and development of the contribution of the national community abroad to the various programs and activities linked to civil society at the national level and to integrate it into the process of national development and to develop the information and communication with regard to it;

- to disseminate national values and principles and to propose the fundamental mechanisms to encourage volunteering and work for the general interest in the activity of civil society and to develop the spirit of belonging and improve capacity individuals to communicate”.

⁹ Articles 18 and 19, Ibid.

- initiate or participate in any study aimed at promoting and strengthening the role of the various actors of civil society in all fields;
- organize conferences, study days, training sessions, seminars, national and local meetings of civil society and any awareness-raising or media work in relation to its missions;
- to issue opinions on draft legislative and regulatory texts in relation to its missions, for which its opinion is required;
- promote consultation and cooperation with similar foreign bodies, in coordination with the services of the minister responsible for foreign affairs. The Observatory may resort to opinion polls on all questions falling within its missions.

Title 3: The functioning of the national civil society observatory

The functioning of the national civil society observatory will be introduced by the Referral to the national civil society observatory (**Chapter 1**), then by the participation of other bodies in the work of the Observatory (**Chapter 2**), and the reports and reviews of the national civil society observatory (**Chapter 3**).

Chapter 1: Referral to the national civil society observatory

The Observatory is referred to by the President of the Republic. In addition, it may be seized by the Prime Minister or by the Head of Government, as the case may be. The Observatory may take the initiative to formulate proposals or recommendations or to prepare any studies relating to its missions. The referral authority sets the time limit within which the Observatory must submit its opinions or recommendations. It cannot be less than thirty (30) days, subject to the emergency cases indicated in the referral document¹⁰.

According to article 14 of the Presidential Decree n ° 21-139, the Observatory receives the concerns of the various actors of civil society and their suggestions on the revitalization of the role of civil society, in particular in the fields of the promotion of values. national, democratic and civic practice and the achievement of sustainable national development.

Chapter 2: The participation of other bodies in the work of the national civil society observatory

According to article 15 of Presidential Decree No. 21-139, the representatives of the ministerial departments responsible for foreign affairs, the interior and local communities, finance, religious affairs, national education, education higher education, culture, youth and sport, national solidarity, health, work and the environment participate in the work of the Observatory in an advisory capacity and without a deliberative voice. They are proposed by the

¹⁰ Article 12, Ibid.

And according to Article 13, the Observatory can, if necessary, hold its meetings at the level of any wilaya or municipality.

administrations to which they report, among people with experience and known for their interest in civil society.

The Observatory can invite to participate in its work, in an advisory or observer capacity, the actors of civil society and the representative of any public administration or public or private establishment and any authorized person who can help it in the accomplishment of its missions. In carrying out its missions, the observatory may also ask anybody or public or private company for information or any useful details.

They are required to respond to its correspondence within a period not exceeding sixty (60) days. The information provided for in this article may not be used for purposes other than those for which it was requested¹¹.

Chapter 3: Reports and reviews of the national civil society observatory

The president of the National Civil Society Observatory sends the President of the Republic an annual report on the results of the Observatory's activities, the assessment of the situation of civil society and its proposals and recommendations for strengthening and promotion of its activity and it sets up a national information system on in particular the situation of civil society, its activity and the different areas of its intervention, in coordination with the various actors of civil society, administrations and organizations concerned¹².

Title 4: The organization of the national civil society observatory

The National Civil Society Observatory has the following bodies: the President (**Chapter 1**), the Council (**Chapter 2**) and the Office (**Chapter 3**).

The Observatory may form thematic committees or committees in accordance with the provisions of the Observatory's internal regulations¹³.

The Observatory has a permanent secretariat and administrative services. The permanent secretariat is placed under the authority of the President of the Observatory.

He is responsible for organizing the work of the office and providing technical assistance to the work of the Observatory. The other missions of the permanent secretariat and the terms of its functioning are set out in the Observatory's internal regulations. Administrative services, under the authority of

¹¹ Articles 16 et 17 of the Presidential Decree n° 21-139,

¹² Articles 21 et 22, Ibid.

In accordance with Article 24, the Observatory draws up and adopts its rules of procedure, which are published in the Official Journal.

¹³ Articles 25 et 26, Ibid.

its president. The administration of the Observatory is headed by a secretary general¹⁴.

Chapter 1: The president of the national civil society observatory

The president of the National Civil Society Observatory is responsible for the management of the Observatory. It activates and coordinates the action of its organs. He is the spokesperson and representative of the Observatory at the national and international levels. As such, he is responsible, in particular:

- To represent the Observatory in all acts of civil life and before the courts;
- managing the work of the Observatory office;
- set the agenda for the office and the management of its meetings;
- designate personnel for whom no other method of designation is provided;
- the preparation of various reports relating to the activity of the office;
- the preparation of the Observatory's draft budget and action plan;
- the development of the draft internal regulations;
- the exercise of hierarchical authority over all Observatory staff;
- refer the matter to the Observatory office on any matter it deems necessary;
- submit the recommendations, reports and opinions of the Observatory to the

President of the Republic or, as the case may be, to the Prime Minister or the Head of Government;

- the conclusion of agreements, conventions and contracts in relation to the missions of the Observatory. The president is the Observatory's budget authorizing officer¹⁵.

Chapter 2: The council of the national civil society observatory

The council is the deliberative organ of the Observatory. It is made up of all members of the Observatory. It meets every three (3) months at the request of the president as it can meet in extraordinary sessions at the request of its president or two thirds (2/3) of its members. Board meetings are only valid in the presence of half (1/2) of its members. If the quorum is not reached, a new meeting is called, within a period not exceeding fifteen (15) days.

In this case, the meetings are valid regardless of the number of members present. Decisions of the Board are taken by a majority of votes and, in the event of a tie, that of the President is decisive.

¹⁴ Articles 27 et 28 du Décret présidentiel n° 21-139,

The Secretary General, as well as all the higher state functions at the Observatory level, are appointed by presidential decree. -according to article 23 of the same decree, the Observatory recruits permanent and contractual staff in accordance with the terms and conditions provided for by the laws and regulations in force.

¹⁵ Article 29, Ibid.

The board is responsible for approving:

- opinions and recommendations from the Observatory;
- the internal regulations;
- periodic reports prepared by the Bureau and the President of the Observatory; the Observatory's action plan and its activity report;
- the annual financial and moral report;
- the annual report that will be submitted by the Observatory to the President of the Republic;
- the establishment of committees or thematic committees;
- committee reports;
- acceptance of donations and bequests;
- the Observatory's draft budget;
- questions submitted to it by the President of the Observatory¹⁶.

Chapter 3: The office of the national civil society observatory

The office of the national civil society observatory is composed of the president of the Observatory, president, and four (4) members elected by the council, in accordance with the conditions set out in the internal regulations of the Observatory.

The president of the office and its members must exercise their functions, full time. They benefit from the salary and the compensation plan fixed by a specific¹⁷.

- The observatory office is responsible, in particular:
 - coordinate the activities of the committees and monitor their work;
 - examine all issues related to the work of the Observatory;
- evaluate the activity of the Observatory and prepare reports and recommendations;
- Develop the appropriate framework and mechanisms to improve the work of the Observatory;
- examine the Observatory's draft budget¹⁸;

¹⁶ Article 30-31-32, Ibid.

¹⁷ Articles 33 et 34, Ibid.

¹⁸ For the budget of the observatory and according to articles 36, 37, 38 of Presidential Decree No. 21-139:

The Observatory's budget includes:

In terms of revenue:

- allocations from the State budget;
- donations and bequests in accordance with the legislation in force.

Under expenses:

- operating expenses;
- equipment expenses.

The financial management of the Observatory is subject to the rules of public accounting. The State provides the Observatory with the human, financial and material resources necessary for its operation.

- examine the draft rules of procedure of the Observatory;
- approve the conclusion of agreements, conventions and contracts, in relation to the missions of the Observatory;
- To examine all questions submitted to it by the President of the Observatory¹⁹.

Conclusion:

One of the most important achievements of the 2020 Constitutional Amendment is the establishment of the National Civil Society Observatory, and due to its important missions such as its contribution to the promotion of national values, democratic and civic practice and its participation with other institutions in the achievement of national development objectives and the promotion of the performance of civil society in the light of society's needs and available possibilities, and to propose a global conception of its role in sustainable national development and to identify the obstacles that prevent its active participation in public life and to notify the competent authorities there of and to undertake any action capable of promoting its activity; add to that the contribution of the Observatory to contribute to the establishment of the bases of consultation between all the actors of the civil society and the public authorities, all those missions will contribute certainly for the sustainable national development.

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2- Presidential Decree n° 21-139 of 29 Chaâbane 1442 corresponding to 12 avril 2021 relating to the the national civil society observatory, JORADP n° du 6 Ramadan 1442 corresponding to 18 avril 2021 ;

3- Presidential Decree N° 20-251 of 27 Muharram 1442 corresponding to 15 September 2020, including the call of the Electoral Commission for the Constitution amendment, Official Journal N° 54 of 28 Muharram 1442 corresponding to 16 September 2020.

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¹⁹ Article 35, Ibid.