

Praise be to God

DAHIR N° 1-01-298

***Setting up the institution of
Diwan Al Madhalim***

Peace and Prayer be upon the Prophet

***Be it known by these present, May God elevate and consolidate
the content thereof,***

Preamble

Considering that the enforcement of justice and the repair of iniquities are amongst the most sacred duties of the King, Commander of the Faithful, and whereas Our glorious ancestors, aware of the lofty goals of this mission, were constantly keen on setting at their side institutions, entrusted with the task of informing them about the grievances befalling their subjects and correcting abuses and ultra vires actions, committed by administrative officials;

Considering that Our venerated father, His Majesty King Hassan II, May God rest his soul in peace, desirous to strengthen the move of Our Kingdom towards more justice and equity, was keen on setting up administrative courts, in charge of redressing the excesses and remedy the prejudices caused to Our subjects by administrations, due to dysfunctions of the

administration or to a bad enforcement of laws, as well setting up in His Majesty's side, a human rights advisory council, in charge of assisting the King, Commander of the Believers, protector of the rights of individuals and groups and guarantor of the respect thereof;

Considering Our will to reinforce the gains achieved by Our country in this realm, and desirous to make of the safeguard of the citizen's interests, the protection of rights and communication with citizen, the founding principles of Our new concept of authority;

Desirous to achieve this goal, We have reinforced the autonomy of the human rights advisory council and enlarged the scope of its competence, in order that Our Majesty be constantly kept informed of the situation of human rights in their wider acceptance and decide upon the measures to be taken to guarantee the respect thereof;

Considering the expectations of Our loyal subjects who aspire to more equity in facing the increasingly complicated administrative procedures, due to the increased number and technicality of the affairs treated by the administration and the difficulty to adapt the running of public services for specific situations;

Keen to have an institution endowed with the competence to search, without encroaching on the prerogatives of the public authority, the means to correct the injustices, caused by situations that are incompatible with equity and prejudicial to the users of public services

Desirous to complement the tasks of the judiciary system, known for its complex procedures and the general laws governing it, and concerned to reinforce the role of the human rights advisory council within the scope of the prerogatives

conferred to it;

Convinced that the setting up of the intended institution in Our Majesty's side and under Our High patronage, will give it the necessary independence from the executive, legislative and judiciary systems and guarantee its impartiality in investigating the complaints submitted to it.

Whereas the fulfillment of this institution of its tasks close to all Our loyal subjects, requires its direct contact with the services of Our Prime minister and the members of Our government, through delegates appointed within such services, and if need be, through regional delegates in the headquarters of the Regions or ad hoc delegates in charge with handling the difficulties faced by some of Our subjects, particularly in their interaction with administrations;

Convinced that the officials of this institution shall discharge their duties in the best way, combining between the task of repairing injustices, through making proposals and recommendations to the concerned administrations, likely to right the wrongs and the contribution in improving administration performance in the service of the citizen in conformity with the rule of law and equity principles, through the presentation of an annual report to Our Majesty and reports to the Prime minister and human rights advisory council, containing proposals to reach this ideal objective;

For these reasons; and

By virtue of Article 19 of the Constitution

We order the following:

Article 1

The Institution of “Diwan Al Madhalim” shall be set up in our side and shall be entrusted with the development of communication between citizens, individually or collectively and the administrations of any other body exercising the prerogatives of public authority and with seeing to the respect of the rule of law and equity.

Article 2

Our Majesty shall appoint for a six-year renewable mandate a Wali Al Madhalim (Ombudsman) entrusted with the fulfillment of the prerogatives conferred upon Diwan Al Madhalim, with the assistance of delegates he shall appoint in accordance with the provisions of article 4 below.

Our Majesty shall also appoint in Diwan Al Madhalim, if necessary, delegates in charge of developing communication on issues relating to the difficulties encountered by some of Our subjects in their interaction with the administration.

Article 3

In accordance with paragraph “d” of article 4 of Our dahir N°

1-00-350, relating to the reorganization of the human rights advisory council published on Moharram 15, 1422 (April 10, 2001), the Wali, as such, shall sit as a reporting member in the human rights advisory council.

Article 4

Upon approval by Our Majesty, the Wali shall appoint and dismiss his delegates in the Prime minister's office and ministries and shall also be entitled to appoint regional delegates at the headquarters of the Regions. He shall ensure the fulfillment of their duties in full autonomy and impartiality.

Article 5

Our Majesty orders the Wali to conduct investigations in the matters falling under his competence and report to Our Majesty the results of such investigations.

The Wali shall handle the complaints and grievances of Our loyal subjects who feel victimized by a decision or an action, violating the rule of law and equity principles, taken by the State administrations, local communes, public institutions or any body entrusted with the powers of public authority.

In addition, the Chairman of the human rights advisory council may refer to the Wali all the complaints sent to the Council and which fall under the scope of competence of Diwan AlMadhalim and satisfying the conditions stipulated in article 6 and 7 below.

Article 6

The Wali or his delegates shall not handle or intervene in the following matters:

- Complaints relating to affairs already put before courts;
- Complaints seeking to review a final judgment;
- Requests relating to issues falling within the purview of the Parliament;
- Issues falling within the purview of the human rights advisory council. In such instances, the Wali shall immediately forward the complaints and grievances involving human right violations to the Council.
- Cases where the complainant has not taken any formal steps, filed a petition for pardon, or exhausted all appeal possibilities, provided for by the laws in force, to right wrongs, redress the alleged prejudices or retrieve his rights.

The Wali and his delegates can, however, in the above stated cases, investigate with the parties, at their request, solutions likely to bring a swift and fair settlement to the dispute.

Should the investigation reveal that the refusal of the concerned body's to enforce a final judicial decision is the result of an action of a civil servant or agent, working with it or of his failure to discharge his duties, the Wali shall submit a report on the subject to the Prime minister's consideration.

Article 7

The complaints and grievances shall be addressed to the Wali or his delegates in ministries or regions by the complainant, either directly or through a proxy.

In order to be accepted, the **complaints and grievances shall have to be in a written form**, well motivated and duly signed by the complainant in person. The complaint shall indicate all the steps already taken by the complainant to retrieve his rights from the authority he is filing a case against. If the claim cannot be filed in written, the complainant can submit it orally, supported with justifying evidence and documents, to the Wali's delegate who shall record it and write it down.

Article 8

The **recourse** to the Wali shall **not interrupt** nor put an end to the **prescription** or **appeal deadlines**, provided for by the law.

Article 9

The Wali shall conduct necessary inquiries to verify the acts reported to him and evaluate the severity of the abuse suffered by the complainant and the qualification thereof. He shall also interrogate the concerned authorities about the deeds, subject of the complaint.

Head of administrative departments and any other public institutions, referred to in article 5 above, to which the Wali or his delegates may submit cases, shall have to provide all support to enable them to apprehend all the aspects of the conflict. They shall instruct their staff, agents and control bodies, working under their authority, to facilitate the mission of the Wali or his delegates during their investigations. They shall have the **right to request access to all documents** relative to the complaint, subject of the investigation, **except those deemed classified State documents.**

Article 10

The Wali shall undertake all mediation efforts, particularly conciliatory ones, that he judges conducive to putting an end to a proven injustice, in accordance with the rule of law and equity.

He shall send his proposals, recommendations and remarks to the administrations and institutions stated in article 5 above.

Article 11

The administration or institution, concerned by the recommendations, proposals and remarks of the Wali or his delegates, shall have to implement, within a fixed time limit, necessary actions and measures to settle the issues referred to them and report in written about the results achieved.

The Wali or his delegates shall advise the complainant in written about the outcome of his claim.

Article 12

The Wali shall make general recommendations to the Prime minister about the measures likely to right the wrongs with regard to the claims submitted to him. He shall also make proposals regarding the measures to improve the performance of the administration against which complaints are filed and remedy the dysfunction and shortcomings that hinder the running of the services falling within their purview and amend their regulatory texts, and inform the Prime minister about their refusal to comply with his recommendations.

Article 13

The Wali shall submit a report to the human rights advisory council about the issues relating to the promotion of human rights within his scope of competence.

Article 14

The Wali shall present to Our Majesty an annual report on the results of his activities. By order of Our Majesty, this report shall be published, partly or totally in the Official Gazette.

Article 15

The Wali shall submit to Our Majesty for approval, a set of internal regulations, specifying namely the following:

- The administrative, financial and accounting organization of Diwan Al Madhalim;
- The prerogatives and the delegation of powers conferred upon the ministerial and regional delegates of the Wali;
- The procedure and conditions for filing complaints and claims and their review.

Article 16

The funds allocated to the management and equipment of Diwan Al Madhalim shall originate from the Budget of the Royal court.

The Wali shall be the official in charge for the spending of the funds allocated to his institution and can delegate to one of his officers the task of deputy payer.

He shall have the right to appoint all the assistants necessary to discharge the prerogatives conferred upon Diwan Al Madhalim. He shall be entitled to ask for the attachment of civil servants and agents from other administrations and public institutions to his office.

Article 17

Our dahir shall be published in the Official Gazette and shall annul the dahir No 1-56-279 issued on 6 Rabia II 1376 (10 November 1956) and the dahir No 1-56-325 dated on 15 Ramadan 1376 (16 April 1957) relating to the setting up and organization of the Office of Researches and Information in the side of His Majesty the Sultan.

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