

Decree 2-05-1228 of the 13 march 2007 instituting the Central Agency of Prevention of Corruption

The Prime Minister

Noting the Constitution, notably article 63;

After examination by the Counsel of Ministers reunited the 31 January 2007,¹

Decreets:

Article 1 – The Prime Minister establishes a Central Agency of Prevention of Corruption, hereafter named the “Central Agency”

For the purpose of the present decree, corruption consists of all the acts related with the traffic of influence or the use of public power for private gain, as they are defined in the penal code.²

Dispositions related to the Central Agency³

Article 2 – The Central Agency shall co-ordinate, supervise, and assure the implementation of policies aiming to prevent corruption in the public sector as well as collect and publicise information about these policies.⁴

To this end, the Central Agency is charged with:

- proposing to the government general policies related to preventing corruption, particularly involving co-operation in the fight against corruption between the public sector and the private sector,
- proposing measures of awareness raising among the public and organising information campaigns aiming at preventing corruption,
- contributing, in co-operation with the public administration and other concerned organisations, to the development of international co-operation in the area of preventing corruption,
- assuring the implementation and the evaluation of measures taken in order to implement government policy in the area of preventing corruption as well as addressing recommendations to the administration, public organisations, private enterprises, and other organisations which are involved in making policies related to preventing corruption,

¹ Islamic dates are not given in this translation

² The original text defines “détournement et concussion” without providing a formal definition of corruption. As such, I have tried to provide a definition which is likely to be in the penal code (though as the penal code is also not easily available in French, I have had to make a supposition based on international common practice in defining corruption offences.

³ Subtitles added to assist reader organise concepts in the decree

⁴ These policies presumably are defined in the national anti-corruption strategy and action plan.

- giving advice to administrative authorities about measures which can be taken to help prevent acts of corruption in the public sector,
- collecting all information related to corruption and managing such information in a database,
- informing the competent judicial authority about facts likely to constitute acts of corruption as defined and punished by the law.

Article 3 – The Central Agency shall be composed of a Plenary Assembly, an Executive Commission and a General Secretary.

The Central Agency shall be presided over by an individual known for his or her competence, experience and probity, nominated by the Prime Minister for a non-renewable period of 6 years.

Dispositions related to the Plenary Assembly

Article 4 – The Plenary Assembly shall be charged with:

- proposing to the government a national strategy for preventing corruption, as well as proposing mechanisms to adopt in order to reduce corruption,
- recommending to the private sector measures to take to prevent corruption,
- giving advice to administrative authorities about measures which are likely to prevent acts of corruption,
- defining the Executive Commission’s work programme,
- evaluating activities undertaken to prevent corruption

Article 5 – The Plenary Assembly, which shall be presided over by the president of the Central Agency shall consist of, besides Ombudsman (*Wali-Al Madhalim*):

I – a member designated by each of the government authorities charged with: foreign affairs, interior, justice, habous property and Islamic affairs, public finance, the secretary general of the government, agriculture and fishing, employment, education, equipment and transport, health, communication, public sector modernisation, commerce and industry, national defence, environment, housing and urban affairs.⁵

II – a representative from each of the following professional organisations: the association of the order of Moroccan lawyers, the represent of the federation of chambers of commerce industry and services, the notorial chamber, the national order of adouls, national order of accounting experts, general confederation of moroccan enterprises, professional moroccan banking group, the trade unions most representing workers, the

⁵ *Habous* refers to a definition of property in Islamic property law whereby such property has restricted rights of sale and transfer in order to preserve the property for familial or social use. *Habitat et urbanism* has been defined as housing and urban affairs.

association the most representative among those cited in the second bullet point section of the III point thereafter, and the national union of the Moroccan press.⁶

III. The following associated members: 13 members nominated by the prime minister as follows:

- six members of civil society chosen for their activity in the fight against corruption
- three members of the associations working in the area of preventing corruption
- four members chosen among researchers-teachers known for the competence in the area of the fight against corruption.

The members of the plenary assemble shall be named for a duration of 4 years, renewable only once.

The Plenary Assembly may also include within its membership any person who can contribute to its work.

Article 6 – The Plenary Assembly may be convoked by the government for any question related to corruption.

The Plenary Assembly shall present an annual report about its work in preventing corruption and progress on previous recommendations to the Prime Minister.

This report should consist of proposals made to the government about preventing corruption as well as include an evaluation of the actions taken.

The Plenary Assembly shall publicise this report and provide for its publication. The Plenary Assembly shall be responsible for sending a copy of the report to the Minister of Justice. The Plenary Assembly may also publish all studies, advice or proposals in relation to the prevention of corruption.

Article 7 – The Plenary Assembly shall meet at least two times per year or by the request of the majority of its members,

The president of the Central Agency shall establish the Plenary Assembly's meeting agenda, in conformance with the objectives assigned to the Plenary Assembly as per article 2 above. The Central Agency's president shall submit this agenda to the Plenary Assembly.⁷

The Plenary Assembly shall be quorate when two-thirds of its members are present. The Plenary Assembly shall take decisions by the majority vote of present members. In case of a tie, the president's vote decides the vote's outcome. If the meeting is inquorate, the Plenary Assembly shall meet after one calendar month.

Dispositions related to the Executive Commission

Article 8 – the Executive Commission shall be in charge of implementing, under the authority of the Agency's president, the tasks assigned to the Central Agency and shall assure the implementation of his or her decisions and recommendations.

⁶ *Adouls* refer to notaries as recognised under Islamic law.

⁷ No deadlines are given in the original text. Presumably, the president of the Central Agency is required to submit this agency within a certain time before the Assembly's meeting.

To this end, the Executive Commission shall:

- centralise and process information related to acts of corruption brought to the attention of the Central Agency and inform the judicial authorities about these acts when these acts are likely to constitute acts of corruption punishable by law,
- establish and update a database related to corruption,⁸
- develop actions which help co-ordination work aimed at preventing corruption between relevant administrative bodies,
- establish communication strategies and organise public awareness and information campaigns about preventing corruption.

Article 9 – The Executive Commission shall constitute, beside the president of the Central Agency, eight members chosen by the Plenary Assembly, in conformance with article 15 below.

The members of the Executive Commission shall include:

- four members designated by the government authorities defined in the first section of article 5 above,
- two members of the professional organisations mentioned in the second section of article 5 above,
- two members of the associations mentioned in the third section of article 5.

Dispositions related to the General Secretary

Article 10 – The president of the Central Agency shall be assisted by a Secretary General which shall be nominated by the Prime Minister.

The Secretary General shall manage, under the authority of the Central Agency president, the Central Agency's administrative functions, and shall conduct any work required for the preparation and organisation of Central Agency's work activities,

The Secretary General shall be responsible for the maintaining and storing Central Agency files and archives. He or she shall serve as the rapporteur during Plenary Assembly and Executive Commission sessions.

Final dispositions related to the Central Agency

Article 11 – in order to fulfil its legal obligations, the Central Agency's president may call upon experts and external service providers.

Article 12 – regional or local commissions be created by the president of the Central Agency, as necessary, who determines its composition and attributes, after agreement by the Plenary Assembly.

Article 13 – the Central Agency's personnel are all required to maintain the confidentiality of any acts of corruption and information in which acquire during the course of their work, except for information included in the annual report as required by article 6 of this decree.⁹

⁸ The original text refers to a database about the "phenomenon of corruption" which may refer to particular cases, to general theories and principles of corruption or other aspects of corruption.

Article 14 – the state administration and the administration of local collectivities must provide the Central Agency’s president, upon his or her demand and by the deadline he or she gives, any documents or information, in conformance with the legal dispositions and regulations in force.

Article 15- The Central Agency’s structure, activities and working procedures shall be determined by a regulation to be elaborated by the Plenary Assembly and submitted for the Prime Minister’s approval.

Article 16- The Central Agency’s finance for daily operations and equipment shall come from the budget of the Prime Minister’s office. The Central Agency’s president shall oversee and manage all Agency budgetary revenues and expenditures.

Article 17 – The present decree will be published in the Official Bulletin, executed in Rabat on the 13 march 2007.

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⁹ Presumably Moroccan law defines official state secrets and intelligence to be kept by law enforcement agencies which determines the types of information which may be included in the annual report. The decree does not make reference to external laws or rule-making.