

# **Resolution of the president of the General National Congress No 28/2015 concerning the issuance of the executive regulation for the law No 20/2013 concerning the establishment of administrative control authority**

## **After reviewing:**

- Temporary Constitutional Declaration issued in 03/08/2011 and its amendments.
- Laws of penalties criminal procedures and its complementary legislations.
- Law of financial system of the state and the regulation of budget, accounts and stores and its amendments.
- Law of judicial authority and its amendments.
- Law No 12/2010 concerning issuing work relations law.
- Law No 20/2013 concerning the establishment of administrative control authority.

The following decision has been issued:

## **Chapter 1 General provisions Article 1**

In the application of the provisions of this regulation the stated below words mean its correspondent means unless the context is otherwise.

### Definitions:

- Administrative control authority
- Law: law No 20/2013 concerning the establishment of Administrative control authority.
- President: president of the administrative control authority.
- Deputy President: deputy president of administrative control authority.
- Authority`s member: technical employee who is granted a membership by a decision of the president.
- Technical employee: who have a higher qualification in law or other qualification with a capacity of judicial control officer by a decision of the president.

- Employee subject to authority`s audit: all employees working in the authorities subject to the control of the authority according to the article 26 of the law.
- Workers: all employees, members and others affiliated to the authority.

#### **Article 2**

The authority starts its specialties according to the provisions of its foundation law, and the stipulations of the regulation, with its main headquarter in Tripoli, and it may establish branches and offices by a decision of the president.

#### **Article 3**

The members and technical employees of the authority are affiliated to their supervisors only by the order of their degrees then to the president, and they may act on behalf of each other.

#### **Article 4**

The specialties of the directors of the administrations and branches or affiliated offices are determined by a decision of the president of the authority.

#### **Article 5**

The president may delegate some of his specialties to the directors of general administrations, offices and branches if the workflow requires it.

#### **Article 6**

The deputy president assists the president in steering the activities of the authority according to the applicable legislations, and especially in:

- Following-up the activities of authority`s branches, receiving correspondences and reports, study it and approve it and following the related procedures.
- Supervising authority`s units in the departments determined by the president of the authority.
- Signing contracts concluded by the authority that its value not exceed 150.000 LYD, to provide services or delegating consultancy committees after the approval of the president.
- Proposing formation of purchase committee and approving its minutes.
- Heading joint committees, main tenders committee and other committees by a delegation of the president.
- Following the work of the committees formed inside the authority.
- Proposing policies and supervising programs, proposing rules and regulations related to the methods and means of organizing procedures related to the activity of the authority.
- Proposing the formation of technical and consultancy committees for following claims required to be followed.
- Proposing granting remunerations, committees remunerations formed according to applicable legislations.
- Preparing periodic reports concerning the performance of the authority.
- Following and supervising daily workflow in the administrative department of the authority.
- Supervising the preparation of budget project, final accounts and annual report of the authority.

- Specialties assigned to him by the president of the authority.

#### **Article 7**

The deputy president act on behalf of the president in case of his absence, and in case of their absence, the oldest director of the general administration act on their behalves, the case of absence should be proven by the failure of the president to perform his duties in the main headquarter in a period that exceed five consequent days. The deputy notifies the legislative authority concerning acting on behalf of the president immediately after the end of the said period.

### **Part 2**

## **In practicing specialties and powers of the authority**

### **Chapter 1**

#### **Control works**

#### **Article 8**

The authority to practice its specialties stipulated in the law, may use all necessary means to investigate and discover crimes and violations and failure of all authorities subject to its audit.

#### **Article 9**

The member or technical employee of the authority if he considers the necessity of imposing individual inspection stipulated in the article 27 of the law, he should describe it in a detailed report attached with permission application stating the suspected crime or violation, the name of the suspected employee and the reasons of the individual inspection. And the related director should sign the report to issue permission by the president.

#### **Article 10**

The individual inspection is confidential, and it should be performed only by and under supervision of the member or technical employee through the method or style determined by the manager of the related administration or branch director. The authority may be assisted by police officers in the investigation or said inspection.

#### **Article 11**

The written permission issued by the president for individual inspection should include the name of the employee subject of inspection, his authority and the purpose of inspection.

The individual inspector should issue a minute including the description of acts and the results of the investigations and inspection, and in all cases the documents of inspection and investigations are totally confidential.

#### **Article 12**

The member or technical employee in the authority in practicing his duties to execute the provisions of the law may require assistance from personal sources to obtain information related to the authorities subject to administrative inspection, providing that he should notify his direct supervisor and to address it confidentially.

### **Article13**

The member or technical employee, when he request to standby an employee for public interest, he should indicate in his application the name of the related employee, his functional degree and the reasons to stop him, and he should also indicate the public interest.

The application should be referred to the president through administration director or branch director to issue stopping decision.

### **Article 14**

The member or technical employee of the authority should considers the decided period of standby in the law, and if the period came to end and he considered it continuity for public interest, he should prepare a memorandum describing the reasons of continuity, and the competent director of administration or branch manager should refer the documents to the president who refer it to the disciplinary board for decision before the end of the standby period. And if he considered not continuing the standby period, he should prepare a memorandum for the president through the competent administration director or branch manager to issue the required decision to stop standby procedure.

### **Article15**

The member of technical employee has the right to review all necessary documents, data or accounts to perform his duties even if it were confidential. and he have the right also to maintain it and take copies, and he may visit work sites and all departments subject to administrative inspection shall provide all services without hindering his duties after verifying his affiliation to the authority by presenting his functional identity card.

### **Article 16**

The member or technical employee to practice his specialties stipulated in the law should investigate the information about the department subject of inspection from different sources that he considers adequate, and he has to analyze it and verify its correctness. And he has the right to perform the required inspection in the site of the relevant department and verify workflow, examines documents and files required to be verified.

Also he has the right to hear and record speeches of the relevant persons, or in the headquarter of the authority if necessary.

### **Article 17**

If the member of technical employee discovered a failure or violation during performing his duties in the department subject to inspection caused by a crime of violation, he should immediately record the said violation or crime and perform required investigations to determine the criminal or the responsible, and he should include it in his report prepared for this purpose where he should indicate type of the crime or violation, names of the responsible and the results of investigations.

### **Article 18**

The member of technical employee if he has a reasonable reason to reserve an account of the department subject of inspection according to the article No 32 of the law, he has to prove it in a report prepared for this purpose, where he indicates number and type of the account, name of the bank and the reasons. Such report is presented to the president through the director of the administration or manager of the competent branch to take the necessary procedures.

### **Article 19**

The member of technical employee in investigating on the authority subject of inspection should verify that its performance is according to the specified purposes in its foundation certificates, and that the responsible persons and employees are performing their duties according to applicable legislations. Also he has to indicate it in a report prepared for this purpose, and he has to indicate the violation of said purposes or rules.

### **Article 20**

The member of technical employee if he discovered during performance of his duty or through the received information about any suspicious on one of the employees subject to inspection, where such information or discovery reveal acts that misrepresent the reputation or dignity of public function, he should investigate the correctness of such information and he has the right to inform the competent administration in the authority to oblige the concerned in providing his financial liability, and he has the right to request performing individual inspection if he deem it necessary according to the article No 27 of the law with regards to the articles 10 and 11 of this regulation.

### **Article 21**

If an employee subject of inspection refused to provide the member or technical employee the required documents or data, the member of technical employee should record it and prove it in the a report prepared for this purpose to be presented before the president through administration director or branch manager to take necessary procedures according to the provisions of the article No 52.

### **Article 22**

The authority should follow-up performance rates in the authorities subject to inspection to achieve the objectives with the best means and less costs, and that the employees are performing their works according to the law.

The authority also should follow-up performance rates on production and services units subject to inspection to verify the achievement of decided objectives.

## **Chapter 2**

### **Investigation**

### **Article 23**

The investigation administration performs investigations for the charges of the employees of the department subject of inspection about the referred violations from its president or charged persons according to the law.

#### **Article 24**

The investigations on the charges of the employees subject to inspection concerning administrative and financial violations should be by one of investigation members.

The investigation in such violations should be according the rules and procedures stipulated in criminal procedures law.

#### **Article 25**

The members of investigation in the authority may not be returned unless if the status decided to return general prosecution members described in applicable legislations.

#### **Article 26**

The investigation should be performed in the headquarter of the authority , and the investigation member may perform investigation in the headquarter of another authority subject of investigations.

#### **Article 27**

The investigation should be in writing, recorded in serial minutes with date, place and time of its opening, to be signed by the investigation member. And the member should prove in the minute all procedures taken, name of the accused, surname, place of work, residence and questions and answers, and the accused should be requested to sign each page of his speeches in the minute.

#### **Article 28**

The minutes are written by a clerk who signs each page with investigation member, and he has to execute his instruction and assists him in transference to investigate outside the authority, and if necessary, a clerk may be delegated from the authority where the investigation member is transferred and oblige him to perform the oath before investigation.

#### **Article 29**

The investigation member may call the accused persons among the employees affiliated to the authority subject of inspection, and it should be done by a delegation order with personal presence or through a judicial control officer in the authority or security officer. The delegation order should include the name of the accused, date of the order, profession, work place, residence, charges, time and place of presence and the signature of the member and the stamp of the authority.

When the accused is presented, the investigation member should verify his identity and inform him about the charges that he faces and record his speeches.

#### **Article 30**

If the accused person after calling him without reasonable excuse, the investigation member may issue an order to seize and bring him, and the such order should be communicated through a judicial control officer in the authority or a security officer. This order should include the name of the accused, his surname, profession, work place, residence, charges, date of the order and signature of the investigation member.

Such order is revoked after a period of six months from the date of issue unless renewed by the member for further period.

### **Article 31**

The investigation addresses all referred facts, and if the member discovered during the investigation violations or crimes that are not related to the original fact, he should record it and refer it to the president through the director of competent administration to give it the number of the case.

### **Article 32**

The investigation member may request from competent authorities the documents and files and he may take copies when necessary for investigation, and he has the right to review Any data that consider it necessary, and the authorities subject to inspection shall allow investigation members thereof, even if the documents or files are confidential.

### **Article 33**

The investigation member may use experts in technical issues if requires by the investigation, and such experts shall be subject to the decided provisions applied on judicial experts in the applicable legislations.

### **Article 34**

If an investigation members considers that the interest of investigation requires stopping the accused from work, he should prepare a memorandum describing investigation subject, reasons of his stopping request, to be presented before the president for issuing stopping order, and the stopping period shall not exceed three months unless by a decision of the competent disciplinary board.

### **Article 35**

The investigation member should end the investigation with whom stopped from work during decided period, and if he found very reasonable reasons to extend stopping period, he should prepare a memorandum indicating the facts and the reasons of extension of the stopping period to be presented before the president through the director of the competent administration charged with investigation, and if the president approved the extension her should refer the documents to the competent disciplinary board to extend stopping period.

### **Article 36**

The investigation member in all cases may inspect work places and others places used by the accused employees when necessary.

### **Article 37**

If there are reasonable reasons to search the house of the accused employee, or it has been presented before the president of public prosecution in a memorandum issued by the director of investigation administration where the house of the accused is among the jurisdiction of the said prosecution, and should be attached with written permission in the minute.

The investigation member starts searching with the presence of the accused employee or his agent when possible, and if it is not possible, the search should be witnessed by to full eligibilities witnesses among his relatives or neighbors, this arrangement should be considered as possible and should be recorded in the minute. And if the accused employee was a female, the

search should be performed by a female delegated by the investigation member, and the member may request police officers` help in searching.

#### **Article 38**

If the search revealed finding documents or things that are important for investigation, the member should record its data and description in the minute, provided that should be maintained in a closed envelop sealed with the seal of the authority with indication of minute date and number, and subject of the investigation.

But if the investigation member during the search found other things that deemed according to penalties law or any other law a crime, he should record it and maintain it, issuing a minute and refer it immediately to the general prosecution to take the necessary procedures.

#### **Article 39**

The investigation member proves in the minute the investigation procedures, presence or absence of the accused during search, its detailed results with all documents and related items.

#### **Article 40**

The investigation member may call witnesses among the employees of the authorities subject to inspection and others to hear their speeches after the oath.

The delegation order for presence of witness should include the name of witness, surname, place of work, profession, residence, subject of the investigation, date of order and the time for witness and the signature of investigation member band the stamp of the authority.

The delegation orders for witnessing, seizure and bringing orders should be announced by one of the judicial control officers in the authority or security officer. These orders should not be executed after six months from the date of its issuance unless extended by the investigation member for further period.

#### **Article 41**

Every employee called for witnessing should be present in the determined date in the defelation order, and if he failed to be present or refuse to witness, the investigation member should record it in the minute and he may delegate a judicial control officer or security officer to bring the employee who refused to be present.

If the witness was ill or there were preventives to be present for witnessing, it may hear his speeches in his place, and if the member transferred to hear his witness and he discovered the incorrectness of the excuse, he should ordered to bring him in the date determined for him by a judicial control or security officer, and the decided provisions in the law of criminal procedures related to witness refusal should be applied.

#### **Article 42**

In recording administrative or financial violation, it should be referred to the applicable regulations and decisions, and the description should be correspondent to it as possible.

#### **Article 43**

The investigation member after finishing recording and description of acts in the documents should refer it to the competent disciplinary board or order to reserve the disciplinary suit for

non-violation or for the insufficiency of proves, and it should be approved by the president of the authority after presenting it through the director of the competent administration.

#### **Article 44**

If the investigation resulted an occurrence of a crime, the investigation member should prove it in the investigation minute and prepare a memorandum that includes a description of the facts, its legal aspect and refer it to the director of the competent administration who should be presented before the president.

#### **Article 45**

The accused employee during investigation has all stipulated guarantees in the law of criminal procedures.

### **Part 3**

## **System of authority`s members and employee and their disciplinary procedures**

### **Chapter 1**

## **System of authority`s members and employee**

#### **Article 46**

For the assignment of one of the authority`s employees or members, he should fulfill all assignment requirements of the public function according to the applicable legislations without prejudice of the provisions of the law No 20/2014.

#### **Article 47**

With regards of the provisions of the previous article, the employee of the authority should pass an assignment exam successfully before the competent committee, which is formed by a resolution of the president indicating the method of the exam.

#### **Article 48**

The technical employees, whom passed the assignment exam before their delegation to work in an inspection administration or one of its branches, should be subject to theoretical and practical training courses in inspection domain according to a program prepared for this purpose with a period not less than six months.

#### **Article 49**

The members and employees of the authority are subject to an oath before starting performing their works as follows: I swear of God that I perform my duties with complete honesty and loyalty, and I will respect the law and consider the interests of the Libyan people a full care. And the oath should be before the president or his deputy or any delegated person.

#### **Article 50**

The committee of members and employees` affairs addresses all functional affairs of the members with all stipulated powers in the applicable legislations without prejudice of the law provisions. And it should prepare the cadre of the authority with cooperation with administrative affairs department and to be approved by the president.

#### **Article 51**

The conditions of granting a membership in the authority are as follows:

- He should have a higher qualification in law or any other qualification required by the nature of the work of the authority determined by the president according to the article No 6 of the law.
- That he spent three years in inspection work in one of the inspection administration or technical offices as technical employee.
- That his efficiency in performing his duties is not less than Good during three consequent years in the authority, determined by an inspection report prepared for him by the inspection office
- That he should not been previously subject to disciplinary procedures by disciplinary boards.

#### **Article 52**

An office in the authority should be established to inspect all members` works and technical employees no0minated to obtain membership by regards of the required conditions and article No 51 of this regulation.

#### **Article 53**

An adequate number of members should be delegated for working in the inspection office but their degrees shall not be less than eleventh degree, by a decision of the president to perform inspection and evaluation duties, and in their nomination it should considers different applicable specialties in the authority.

#### **Article 54**

An inspection should be performed on the works of authority`s members and employees at least once each year, the inspection report should be submitted during two months from the date of completing the inspection and the efficiency should be evaluated by one of the following grades:

1. Excellent
2. Very good
3. Good
4. Weak

The authority`s members shall be informed about the documents attached to their files in the inspection office as notes and other documents related to their function and behavior.

The inspection list determines the rules and regulations of the inspection and it should be issued by a decision of the president.

#### **Article 55**

The employees of the authority and their first degree family enjoy health and social care, and their medical treatment in the Libyan medical establishments and companies should be approved by the authority. The authority bears treatment costs in these companies and establishments according to the approved financial assignments in the budget of the authority according to the following:

- Price of the medicaments and surgeries, laboratory examinations and radiology analysis.
- Accommodation and treatment costs in these companies or establishments.

- Medical glasses, artificial limbs including dents and hearing devices if recommended by a doctor.

The authority may contract with an insurance company to provide health care for the employees inside and outside Libya.

#### **Article 56**

The employees of the authority are granted a financial compensation in case of injury during the work, overall or partial disability or death according to the rates and rules stipulated in applicable legislations.

#### **Article 57**

The authority works to upgrade the efficiency of its employees through training and development on their specialties related to their work's nature and their inspection duties, with giving priority to the training inside Libya. The decision of delegation for training abroad is issued by the president, and the training regulation determines the rules of such training.

### **Chapter 2**

#### **Disciplinary procedures for authority's members**

#### **Article 58**

It may not investigate administratively with authority's members unless by virtue of written permission from the president, where he determines the delegated person for investigation according to the article No 20 of the law. The confidential files shall be opened and the results of such investigations shall be provided in a memorandum to be presented before the president.

The disciplinary suit should be raised on an authority's member by a report of causes from its president, and the member should be ordered to be present before the disciplinary board through a notification with receipt acknowledge, and the report includes a detailed description of accusations and its proves.

#### **Article 59**

The board mentioned in the article 22 of the law should be convened in the headquarter of the authority, and its meeting is not deemed correct unless by the presence of all its members and the decisions shall be taken by the majority of opinions.

#### **Article 60**

The sessions of disciplinary proceedings are confidential, and the member should be present personally, and he has the right to authorize a lawyer to defend him, and the disciplinary board may request its presence personally. And if he was absent a decision with his absence should be taken after verifying his reception to the presence order.

The decision should include the reasons of the decision and the member should be informed by a notification with receipt acknowledge during the legal period.

### **Article 61**

The disciplinary proceeding is revoked after the legal period determined in the applicable legislations and it should not have any impact on the criminal or civil proceeding occurred by the same fact.

**Sealed by:**

**General national congress / Libya**

**President`s decisions**

**Law No 17/2016**  
**Concerning the amendment of the law No 20/2013 concerning establishing**  
**administrative inspection authority**

**General national congress**

**After reviewing:**

- Temporary Constitutional Declaration issued in 03/08/2011 and its amendments.
- The bylaws of the general national congress
- Laws of penalties criminal procedures and its complementary legislations.
- Law of financial system of the state and the regulation of budget, accounts and stores and its amendments.
- Law No 11/1996 concerning reorganization of popular inspection and its amendments.
- Law of judicial system and its amendments
- Law No 2/2007 concerning the organization of inspection and control.
- Law No 2/2007 concerning establishment and organization of financial control authority.
- Resolution of the Libyan transitional council No 119/201 concerning the establishment of control board and its amendments.
- Law No 12/2010 concerning issuing work relations law.
- Law No 19/2013 concerning reorganization of control board and its amendments
- Law No 20/2013 concerning the establishment of administrative control authority.
- The report of the president of administrative control authority No 1825.1.1 dated in 05/04/2015
- Decision of the president of general national congress in its regular meeting No 239 convened in Thursday 23/02/2016.

**The following decision has been issued:**

**Article 1**

Amending the article No 42, whereas its text will be as follows:

If the investigation on a crime or felony resulted, or the facts subject of investigation consist a criminal crimes, the investigation member practice all powers of prosecution stipulated in the fourth chapter of the first letter of criminal procedures law.

If the manager of the competent administration has sufficient proves against the accusations, he should order to refer the documents of the suit to the competent court or charge department as the case may be, after describing the facts and give it a legal description, and approve it by the president, and the investigation member should perform the proceeding before the competent court, and he have the right to practice all powers of the general prosecution including appeal of issued judgments.

And if the director of the competent administration considers that the suit is not necessary to be raised, he should issue an order to release the accused unless he was stopped for another crime.

The president may cancel the issued order of the incorrectness of raising the suit during three months from the date of issue in all cases stipulated in the law of criminal procedures.

In all cases, the president is specialized of the said appeal in the issued judgments in crimes and he has all powers decided for the general prosecutor and stipulated in the law of criminal procedures.

#### **Article 2**

Amending article No 38 whereas its text to be as follows: the members of the authority may search work places without prior approval of the general prosecution, and the president in case of investigations may permit searching individuals and their houses if there are reasonable reasons to take this procedure. In all cases the permission should be in writing and the search should be performed by the investigation member.

#### **Article 3**

This law is applicable from the date of its issuance and any prejudicing provision should be revoked. This law should be published in the official newspaper.

**Signed and sealed by:**

**General national congress / Libya**

**Laws**