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**National means for confronting and preventing discrimination and hate speech
under Law 20/05**

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Abstract:

Western societies have witnessed a remarkable increase in the phenomena of discrimination and hate speech, which transcended the borders of Western countries and moved to Arab societies. The Algerian society was not far from these criminal phenomena, but rather witnessed a clear increase, especially during the popular “Hirak” movement in February 2019. Given the seriousness of discrimination and hate speech crimes, the Algerian legislator took immediate measures by issuing Law No. 20-05 that is concerned with preventing and combating them. This law aims to deter and penalize all individuals who commit such crimes. Effective mechanisms have been put in place to combat these criminal acts, which would deeply incite discrimination and hate speech within society.

Keywords: Discrimination crimes; hate speech; protection mechanisms; Law No. 20/05; National Observatory.

Hate speech and discrimination crimes are among the most serious crimes that the world has witnessed and humanity still continues to deal with. These crimes give rise to serious violations of human rights, as they deprive the individual from the principle of equality with the rest of society. Due to the great danger that these crimes cause to the social fabric, the Algerian legislator and the international legislation have criminalized acts of discrimination and hate speech, in accordance with the national penal laws and international laws and agreements.

Nevertheless, this step was not enough, especially with the large spread of these phenomena and their noticeable manifestation through the media and social media platforms. These crimes are being promoted, whether intentionally or unintentionally, which contributes to spreading violence and aggression in societies.

Therefore, we find that the Algerian legislator, like other international legislations, has assigned preventive and deterrent mechanisms to combat this type of crimes, in accordance with what was stated in Law No. 20/05. These mechanisms are represented in objective principles through criminalizing these behaviours, and other institutional ones that refer to the National Observatory for the Prevention of Discrimination and Hate Speech.

Based on the above, we find the following problem:

To what extent are the legal means established by the Algerian legislator within Law No. 20/05 effective in confronting crimes of discrimination and hate speech?

In order to answer the aforementioned problem, I decided to divide my research paper into two main topics. Within the first topic, I will address the substantive mechanisms for confronting discrimination and hate speech. As for the second topic, I will study the preventive mechanisms against crimes of discrimination and hate speech within the framework of Law No. 20/05.

THE FIRST TOPIC: substantive mechanisms to confront discrimination and hate speech

Protecting society from discrimination and hate speech has become a real and essential challenge that requires all countries to develop effective defense strategies. This aims to ensure brotherhood and cohesion among the different members of society. The Algerian legislator has developed a special strategy to prevent discrimination and hate speech, which includes multiple dimensions. This legal approach includes establishing the ethics of public life and spreading a culture of tolerance and dialogue, while rejecting violence among members of society. This is demonstrated by criminalizing the behaviours that incite discrimination and hate speech, thereby, promoting human values and peaceful coexistence in society.

This is what we will try to clarify further within the first topic of this research paper, which we will devote to tackle the substantive mechanisms for confronting discrimination and hate speech at the national level that we will, in turn, divide into two basic chapters. We will study within **the first requirement**: the concept of discrimination and hate speech, and we will devote **the second requirement**: to images of crimes of discrimination and hate speech.

First requirement: the concept of discrimination and hate speech

The world has witnessed tremendous development, which has imposed on us the necessity of changing the beliefs and ideas that prevailed in the past regarding freedom of expression and opinion. It has become necessary to regulate these freedoms to a greater extent, especially with the issuance of laws that aim to combat any discrimination that incites hatred, in order for these laws to be an incentive and motivation for socialization and an engine for social change.

Therefore, through this requirement, and before we address the forms of crimes of discrimination and hate speech, we will try to begin by defining the

concept of discrimination within the first section, then the concept of hate speech, within the second section.

First section: the concept of discrimination

Racial discrimination includes any form of adverse treatment or differentiation against someone based on his/her race, skin colour, or national or ethnic origin. It can occur anywhere, at work, school, housing, health care, criminal justice, or personal relationships. Therefore, through this section, we will try to clarify the concept of discrimination, as we will divide it into: First, the meaning of discrimination lexically, and second, we will address the definition of discrimination contextually and legally.

First/ Definition of racial discrimination lexically:

It is defined as a race, its plural is races, and it means decent, lineage, and origin. For example, it is said: " he is from a noble race." It also means gender and ancestry like the Semitic race. As for the word discrimination, its origin is discriminated by features, i.e., isolating, separating, or distinguishing. It is a doctrine that differentiates between races and peoples according to their origins and colours. This differentiation results in rights and advantages for the doctrine of those who resent their race and ethnic origin, and racism is still prevalent in some countries. ¹

Second Definition of discrimination contextually and legally:

A_ The contextual definition: It refers to any distinction, exception, or preference that is based on gender, race, colour, lineage, national or ethnic origin, language, geographic affiliation, disability, or health condition. ²

B - The legal definition: discrimination refers to the speech that leads to distinction, exclusion, restriction or preference based on gender, race, colour, lineage, national or ethnic origin, linguistic or geographical affiliation, disability or health condition. It results in preventing or obstructing the recognition or exercise of human rights and fundamental freedoms equally whether in the political, social, economic or cultural sphere. This latter is the same definition stated in Article 1 of the International Convention on the Elimination of All Forms of Racism of 1965, and the Convention against Discrimination in the field of education in 1960.

second section: The concept of hate speech

Knowing the limits and scope of freedom of expression, and clarifying them, requires defining the concept of hate speech, which is what we will try to illustrate

through this section that, in turn, will be divided into first/ the defining hate speech contextually, and second/defining hate speech legally.

First/ The contextual definition of hate speech:

It is a mental state characterized by intense and irrational emotions of hostility, hatred and contempt towards the group or person against whom it is incited. Hate speech is also defined as an oral or written expression or conduct intended to incite hatred, discrimination or violence against an individual or group of people based on certain characteristics, such as race, religion, gender, nationality, identity or disability. Hate speech is often linked to discrimination and can have a significant impact on individuals and communities. In many laws and legal systems, hate speech is considered a crime, thus, the individuals or organizations that engage in it may be punished according to domestic and international laws. Anti-hate speech legislations aim to protect the rights of individuals and promote tolerant and diverse societies. It is worth noting that there is no united definition of hate speech.

Second The legal definition of hate speech:

This is what was stated in the text of Article 03 of Law No. 20/05 related to preventing and combating discrimination and hate speech, which stipulates that it is “all forms of expression that spread, encourage, or justify discrimination.”

Hate speech is an instigation to hatred and violence for a specific reason related to a personal characteristic that distinguishes another person or group of people and makes them an object of contempt on the part of the person who wrote the speech.

Therefore, the association of discrimination with hate speech generates what is known as racism. this latter is not due to a mere change in the reference to race or ethnicity alone, but rather to the transformation of this reference into a discriminatory belief, especially from a strong party against a weak one, to achieve social, economic, or political interests. These beliefs began to affect exceptional area larger than local customs after they have been linked to capitalist systems and have been turned into hegemonic ideologies at times or branches and interests within their framework at other times. This incitement often takes the form of a call through explicit, scientific and effective support and promotion of hatred towards the group.³

second requirement: Images of the crimes of discrimination and hate speech

The spread of the phenomenon of discrimination and hate speech is observed in most societies, and what is most troubling is its spread among different groups within the same society, as it is fuelled by negative ideas that often aim to divide members of society and sow seeds of division among them. Thus, the international laws and national legislations seek firmly to confront this phenomenon through making those actions illegal. Accordingly, we will try, through this chapter, to clarify the acts criminalized by the Algerian legislator and the penalties it has established for the crimes of racial discrimination and hate speech, which were stipulated in Law No. 20/05. We will divide this requirement into the following sections: in the first section we will address: The crime of discrimination and hate speech or the act of inciting and calling for it. Then, will study within the second section: the crime of calling for violence in crimes of discrimination, and within the third section we will address: the crime of forming, encouraging and financing organizations that call for discrimination. We will devote the fourth and final section to the crime of stimulating discrimination electronically, commercially or through media.

First section: The crime of discrimination and hate speech or the act of inciting and calling for it

This crime is considered one of the most serious forms of discrimination and hate speech that threatens the security and stability of the state, and accordingly, it should be effectively addressed through legal means. Emphasis must be placed on preventive measures before resorting to criminal penalties, as it becomes necessary to confront and enhance cultural and social awareness. It is also no less crucial to strengthen the social rejection of this type of speech and preserve the right of individuals to resort to civil justice in case of being exposed to discrimination. Additionally, the right of response and correction must be guaranteed, especially if the speech was published via audio-visual media. Afterwards, we must move to the legal stage by criminalizing these acts and imposing strict penalties for them.⁴

The Algerian legislator punished the crime of discrimination and hate speech, in accordance with the text of Article 30 of Law No. 20/05, with imprisonment from six months to three years and a fine from 60,000 DZD to 300,000 DZD. It also stated that anyone who publicly incites to commit these crimes or organizes them or exercises propaganda activities for them shall be subject to imprisonment from one to three years and a fine of 100,000 DZD to

300,000 DZD, unless the act constitutes a crime that shall be punished by a more severe penalty.

The Algerian legislator also punished, in accordance with the text of Article 31 of the aforementioned Law No. 20/05, discrimination and hate speech with imprisonment from two to five years and a fine from 200,000 DZD to 500,000 DZD in the following cases:

_ If the victim is a child or the commission of the crime was facilitated by the victim's condition resulting from his/her illness, disability, or physical or mental incapacity.

_ If the act was committed by a group of people, whether as principal actors or as participants.

- If the crime was committed using media and communication technology.⁵

Based on the information provided, it appears that the Algerian legislator has taken firm legal measures to confront the acts of inciting discrimination and hate speech. In this context, the legislator decided to criminalize these acts and impose strict penalties in accordance with Article 30 of Law No. 20/05. These penalties include a period of imprisonment ranging from 6 months to 3 years, in addition to a fine ranging from 60,000 DZD to 300,000 DZD. What distinguishes this approach is that there is no opportunity for the criminal judge's discretion in imposing imprisonment or a fine, as the Algerian legislator imposed the implementation of both penalties, which reflects firmness in confronting these crimes and affirms the state's commitment to protecting the rights of individuals and ensuring the safety of society.

The Algerian legislator has tightened the penalty and raised its minimum in the case of committing or organizing the crime of public incitement or exercising hostile acts. The minimum imprisonment has been raised to between one and three years, while the minimum fine has been increased to 100,000 DZD, instead of the previous 60,000 DZD.

In view of what was stated in the text of Article 31 of Law No. 20/05 mentioned above, we find that the Algerian penal legislator has increased the penalty to imprisonment from 2 years to 5 five years and a fine from 200,000 DZD to 500,000 DZD, depending on the condition of the victim. Likewise, regarding the means, it is toughened if the victim is a child or in a state of illness or physical or mental disability. It is also toughened if the perpetrator has authority over the victim, whether this authority is legal or actual, or he exploited his

functional influence to commit the crime. It is aggravated if the perpetrators are a group of people and they committed the crime, whether as original perpetrators or as accomplices. The punishment is also aggravated if the crime was committed using information and communication technology. In other words, the Algerian legislator aggravates the punishment based on the means committed in the crime.

second section: The crime of calling for violence in crimes of discrimination

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This crime is considered the second in the series of crimes of discrimination and hate speech, as it includes an explicit call for violence. In this context, the Algerian legislator imposes strict penalties for the perpetrators of this crime. These penalties include a period of imprisonment ranging from 3 to 7 years, in addition to a fine ranging from 300,000 DZD to 700,000 DZD.

We concluded from the above that if any act that is considered discrimination or hate speech is linked to a call for the use of violence, the penalties imposed by the Algerian legislator are imprisonment for a period of up to 7 years, in addition to imposing a fine of up to 700,000 DZD. It is noted that the legislator did not grant the criminal judge the discretion in imposing a fine or imprisonment, but rather imposed both penalties in this case.⁶

Section Three: The crime of forming, encouraging and financing organizations that call for discrimination

The Algerian legislator criminalizes the establishment of associations and organizations that earn money for the purpose of preparing for one or more of the stipulated crimes of discrimination and hate speech. Furthermore, it criminalizes participation in them, thereby, whoever creates or commits a crime shall be punished with the penalties prescribed for the crime itself. In accordance with the text of Article 36 of Law No. 20/05 mentioned above, this crime is based on a mere joint determination to do the act.

Additionally, the Algerian legislator criminalized the encouragement or financing of activities, associations, organizations or groups that call for discrimination and hatred. This was punished by imprisonment from 2 to 5 years

and a fine from 500,000 DZD to 1,000,000 DZD, in accordance with the text of Article 33 from the previously mentioned Law No. 20/05. Based on the above, it can be deduced that encouraging or financing associations, organizations or groups that call for discrimination and hatred, by any means, is punishable by imprisonment from 2 years to 5 five years, and a fine from 500,000 DZD to 1,000,000 DZD. As in any other crimes, the Algerian legislator did not leave the criminal judge discretionary power in choosing the punishment, but rather imposed on him to punish the offender with both imprisonment and a fine.

Fourth: The crime of stimulating discrimination electronically, in the media, or commercially.

The Algerian legislator criminalized discrimination in media and electronic means in general. Likewise, it criminalized the discrimination performed by the media in various fields, in addition to commercial discrimination.

The legislator imposed a penalty for these criminal behaviours, which consists of imprisonment from 5 to 10 years, and a fine from 5,000,000 DZD to ten million Algerian dinars, on anyone who creates, manages, or displays on a website or electronic account allocated to disseminating information to promote any programs, ideas, information or images that may incite discrimination or hatred in society.

The Algerian legislator has criminalized the act of discrimination that occurs through social media and all electronic means, just as it has criminalized the act of discrimination carried out by the press in various fields. It has also announced the criminalization of commercial discrimination, as committing these criminal behaviours shall be punished by imprisonment from 5 to 10 years and a fine ranging from 5,000,000 DZD to 10,000,000 DZD for anyone who creates, manages, or maintains a website or an electronic account that is dedicated to disseminating information order to promote any program, ideas, news, or images that might incite discrimination or hatred in society. This is without prejudice to the more severe penalties in accordance with what is stated in the text of Article 34 of Law No. 20/05 mentioned above.

A punishment ranging from two years to five years and a fine from 200.000 DA to 500.000 DA is imposed on anyone who produces, manufactures, sells, or offers for sale or circulation products, goods, publications, recordings, films, tapes, cylinders, automated media programs, or any other means carrying any form of expression that would lead to the commission of the stipulated crimes of discrimination and hate speech. The perpetrators of these crimes can also be

sentenced to complementary penalties, according to the text of Article 9 of the Algerian Penal Code. Also, in case of recidivism, the aforementioned penalties are tightened based on what was stated in the text of Article 42.

Over and above, if one crime or more of inciting discrimination and hatred are committed with the knowledge of the owner, he\she shall be punished by a confiscation of the devices, programs, means used to commit these crimes, the money obtained from them, in addition to closing the website or account through which the crime was committed, or making access to it impossible, and closing the shop or place of exploitation. Additionally, it must be pointed out that all this is ruled in parallel with respecting the rights of the third innocent parties.⁷

Nevertheless, the legislator has also stipulated cases of mitigating the penalty, or parts of it, as an effort to support the right to repentance and to consecrate the principle of admitting the one's fault. Hence, it stipulated the alleviation of the penalty of discrimination and hate speech in some cases and the exemption from it in other cases. Their details are as follows:

_ Reducing half of the penalty for anyone who commits one of the stipulated discrimination crimes, then after initiating the writing procedures, assists in the arrest of one or more of the persons involved in committing it or reveals the identity of those who contributed to it.

_ Exemption from punishment: The Algerian legislator stipulates, in accordance with the text of Article 40, that anyone who commits or participates in one or more crimes of discrimination and hate speech, then informs the administrative or judicial authorities of the crime before initiating the follow-up procedures, and helps to identify and arrest its perpetrators, will benefit from excuses that exempt him from punishment.⁸

What we conclude through the above and our study of the forms of crimes of discrimination and hate speech is that the Algerian legislator succeeded, to a certain extent, in defining the actions that represent crimes of discrimination and hate speech, and has set deterrent penalties for them. However, to ensure an effective fight against crimes of discrimination and hate speech, the above-mentioned Law No. 20/05 should not be an only relied-upon means. Instead, it must entail a support for the efforts made by the state in all its bodies, which is the support that falls on the responsibility of civil society and individuals, in addition to the necessity of refining political and media discourse without neglecting the religious discourse that has a great importance in the morals of public life.

THE SECOND TOPIC: National prevention mechanisms against discrimination and hate speech.

The Law No. 20/05 relating to the prevention and combating of discrimination and hate speech has given great importance to preventive mechanisms against hate speech and racial discrimination. It emphasized the role of the state in general and public administrations in particular in combating this phenomenon by developing a national strategy to prevent it, with the aim of moralizing the public life. In the same context and with the aim of preventing discrimination and hate speech, the aforementioned Law No. 20/05 has established the National Observatory for the Prevention of Discrimination and Hate Speech as a body charged with preventing this criminal phenomenon. In addition to that, the previously mentioned Law has worked to protect the victims of discrimination and hatred.

In order to further enrich this regard, we decided to divide this topic into two requirements. We will devote the first requirement to the National Observatory for the Prevention of Discrimination and Hate Speech. Then, in the second requirement we will address the protection of victims of discrimination and hate speech.

First requirement: The National Observatory for the Prevention of Discrimination and Hate Speech

Unprecedentedly, the Algerian legislator, in accordance with the previously mentioned Law 20/05, has created a new mechanism for the protection of national human rights that is stipulated in Article 9, which is called “the National Observatory for the Prevention of Discrimination and Hate Speech.”⁹

In order to provide more insight into this body, we decided to divide this requirement into the following sections: Section One: Definition of the National Observatory for the Prevention of Discrimination and Hate Speech and its legal nature. Section Two: The composition and powers of the National Observatory

First section: Definition of the National Observatory for the Prevention of Discrimination and Hate Speech and its legal nature

The National Observatory for the Prevention of Discrimination and Hate Speech is an institutional preventive mechanism that appeared in Algeria as a result of several reasons, among which we find Algeria’s ratification of many international conventions that call for the development of preventive means to reduce discrimination and hatred. From this standpoint, we will try to give a

definition of the National Observatory first. secondly, we will move to its legal nature.

First the definition of the National Observatory for the Prevention of Discrimination and Hate Speech.

The Algerian legislator has, exceptionally, set the definitions of the National Observatory for the Prevention of Discrimination and Hate Speech within the aforementioned Law No. 20/05. It defined it as “a national body, featured with legal personality and financial independence that is established with the presence of the President of the Republic.” This latter is an unprecedented step in which the Algerian legislator created this body, that is one of the important national mechanisms for protecting and respecting human rights.¹⁰

The difference between the National Observatory for the Prevention of Discrimination and Hate Speech and other bodies such as the National Commission for Preventing and Combating Corruption is that this last is constitutional and has its legal basis in the constitution. As for the Observatory, there is no constitutional text that includes it because it was established during the stage of preparing the constitution, and the provisions of Law No. 20/05 were formulated and issued during the period in which the draft constitution was being prepared. However, we hope that this body will be constitutionalized in the next document in order to document its continuity in the constitutional text. Also, the observatory would be given a higher status similar to the country’s constitutional bodies such as the National Council for Human Rights.

Second The legal nature of the National Observatory for the Prevention of Discrimination and Hate Speech:

The National Observatory is a national body that enjoys legal personality, financial and administrative independence, and has a special part from the state’s general budget, provided that the way the observatory is organized and operates is determined by regulation. We can study its legal nature from three aspects, which are the following:

01_ The absence of the authoritarian nature of the National Observatory:

Regarding the authority of issuing regulatory decisions, Article 10 of Law No. 20\5 stipulates a set of powers related to the consultative and formative nature, communication and other powers related to regulation as well as those related to internal and external cooperation.¹¹ Cooperation with the state and public institutions and administrations appears through The Observatory’s

proposal to the state, institutions, and administrations of the necessary measures to prevent discrimination and hate speech, so that these bodies could take them in accordance with regulatory decisions. Article 10 has confirmed the Observatory's proposal for the necessary measures and procedures to prevent discrimination and hate speech. Thus, the state and the relevant institutions and departments cannot take preventive measures and procedures, unless the Observatory submits its proposals regarding them. An issue of whether these suggestions presented by the Observatory are mandatory for the concerned authorities arises, as the concerned authorities are believed to be bound by these measures and procedures because Article 10 of Law No. 20/05 included the phrase "necessary to prevent them."

The National Observatory also cooperates with the media in the field of prevention of discrimination and hate speech by including it within its programs to spread the culture of awareness of all forms of discrimination, hate speech, and the values of humanity. The National Observatory for the Prevention of Discrimination and Hate Speech is, also, responsible for notifying the competent judicial authorities of actions that reach its attention and potentially constitutes a punishable crime. The law has determined the crimes that the Observatory for the Prevention of Discrimination and Hate Speech reports to the judicial authorities competent in the crimes, some of which we will mention below as examples:

- _ The crime of discrimination and hate speech.
- _ The crime of incitement to discrimination and hate speech.
- _ The crime of joining, praising, or promoting discrimination and hate speech.
- _ The crime of discrimination and hate speech committed against children, sick and disabled people.
- _ The crime of discrimination and hate speech committed by a person who has legal or actual authority over the victim or who exploited the influence of his position to commit it.
- _ The crime of discrimination and hate speech committed by a group of people, whether original or participants.
- _ The crime of discrimination and hate speech committed through media and communication technology.
- _ The crime of hate speech that includes calling for violence¹²... and other crimes.

02- Lack of clarity in the administrative nature of the National Observatory for the Prevention of Discrimination and Hate Speech:

The administrative character in various bodies and authorities is usually determined according to two standards, which are the objective standard and the organic standard. The objective standard is based on the body's activity, which aims to apply the law in the areas assigned to it as the National Observatory was established to prevent discrimination and speech. Hence, it was entrusted with a set of powers and tasks to cover the activity assigned to it.

As for the organic standard, it relates to disputes, which are allocated to the decisions of independent bodies and whose nature determines whether they can be appealed or not. However, this standard can be relied upon in determining the administrative nature of the National Observatory, because the legislator did not explicitly specify the Observatory's disputes and its competent judicial authorities. Therefore, it can be said that the National Observatory has an administrative character as it is an independent body that has been resorted to for the purpose of meeting new needs that cannot be met through traditional administration.¹³

03_ The legislator's incomplete dedication to the autonomy of the National Observatory for the Prevention of Discrimination and Hate Speech:

We can look at the autonomy enjoyed by the National Observatory from the following aspects:

A – Autonomy from the functional standpoint of the National Observatory for the Prevention of Discrimination and Hate Speech:

The manifestations of autonomy from a functional standpoint are represented in the legal independence, which is stipulated in Article 15 of Law No. 20/05 mentioned above. This latter stipulates the freedom of the National Observatory in establishing its internal regulations and approving them without the intervention of another administrative body in imposing the internal system or without the involvement of another body in preparing it.

Administrative independence, is also considered a manifestation of independence from a functional perspective. It was stipulated in Article 9 of Law 20/05 that the National Observatory has a legal personality, one of the effects of which is administrative independence. However, in addition to the legal personality, this law has emphasized administrative independence through the phrase “moral personality and financial and administrative independence.”

Administrative independence includes the methods of organizing the National Observatory and the rules of its operation, in addition to the issue of not submitting the work of the National Observatory to an administrative supervision.¹⁴

second section: The composition and tasks of the National Observatory for the Prevention of Discrimination and Hate Speech

The National Observatory for the Prevention of Discrimination and Hate Speech is a public institution qualified to research the factors that lead to a change in values and societal behaviour. Additionally, it aims to eliminate all the life conditions that led to the emergence of this phenomenon that is contrary to human values, religion, and morals, by creating a comprehensive national strategy for framing and Preparedness. From this logic we find that the National Observatory is characterized by various powers as well as a distinctive composition, and this is what we will try to clarify further within the following points:

Firstly the formation of the National Observatory for the Prevention of Discrimination and Hate Speech.

With reference to the text of Article 09 of Law No. 20/05 mentioned above¹⁵, the Algerian legislator introduced a new human rights mechanism called the National Observatory for the Prevention of Discrimination and Hate Speech. It is a national body placed under the President of the Republic and enjoys legal personality, financial and administrative independence. it is composed of 6 national competencies chosen by the President of the Republic, in addition to other members stipulated in accordance with the text of Article 11 of Law 20/05 mentioned above¹⁶. This body is a new executive mechanism responsible for embodying the national strategy for the prevention of discrimination and hate speech stipulated in Article 05 of Law 20/05 mentioned above¹⁷, in addition to some measures stipulated in Articles 06-07 of the same law¹⁸. This body also carries out other powers included in Article 10 of the aforementioned law¹⁹. From what was previously stated, the National Observatory is distinguished by its diverse composition, which is represented in the following:

- _ Representative of the Supreme Council for the Arabic Language.
- _ Representative of the second Amazigh governorate.
- _ Representative of the National Council for Human Rights.
- _ Representative of the National Authority for Childhood Protection and Promotion.

- _ Representative of the National Council for People with Disabilities.
- _ Representative of the audiovisual regulation authority.
- _ Four representatives of the associations active in the field of observatory intervention, who are proposed by the associations to which they belong.
- _ In addition to consultant members for the relevant ministries, with a representative from each ministry among the owners of senior positions. This is based on a proposal from the authorities subordinate to it, or a member invited to join in as a consultant, a representative of any public or private administration, and every qualified person who can assist the Observatory in performing its duties.

After appointing the 16 members of the Council, they elect a president of the Observatory from among them. He must not practice another profession during his term as president of the Observatory while the law does not stipulate incompatibility for members.

Since the National Observatory is a public institution, its members, like other institutions, must adhere to certain obligations, represented in concealing professional secrecy, which is stipulated in Article 13 of the aforementioned Law 20/05 that states: “The president and members of the Observatory are obligated to maintain professional secrecy, and the duty of reservation is subject to the penalties stipulated in the current legislation.

we notice from the composition of the Observatory that the legislator gave the possibility of appointing 6 members of national competencies, and left the matter of selecting them to the President of the Republic, so that they include national competencies that are concerned with the fields that fall within the tasks assigned to the Observatory. The legislator has made a good choice by doing this, as this will allow for benefiting from every person with competence in the field of preventing crimes of discrimination and hate speech. The person may not be part of any association, ministry or other institutions, as this observatory will include all prominent scientists, researchers in the field of human rights, doctors, journalists, and others.

Second \The powers of the National Observatory for the Prevention of Discrimination and Hate Speech:

The National Observatory for the Prevention of Discrimination and Hate Speech plays a pioneering regional, functional and societal role in the field of strengthening national societal cohesion, through the sensitive tasks that it

performs within the framework of achieving mechanisms for early monitoring, automatic follow-up, and effective diagnosis. Every given factor is relevant to the risks of discrimination and hatred.

Within this framework, the Observatory assumes the following powers:

1_ Proposing elements of the national strategy to prevent discrimination and hate speech, and contributing to its implementation in coordination with the competent public authorities, the various actors in this field, and the civil society.

2_ Early monitoring of acts of discrimination and hate speech and notifying the relevant authorities about them.

3_ Informing the competent judicial authorities of the acts that reach its knowledge and may lead to one of the crimes stipulated in this law.

4_ Providing opinions or recommendations on any issue related to discrimination and hate speech.

5_ Periodically evaluating the legal tools and administrative procedures in the field of preventing discrimination and hate speech and the extent of their effectiveness.

6_ Determining standards and methods for preventing discrimination and hate speech, and developing national expertise in this field.

7_ Developing awareness-raising programs and coordinating awareness-raising operations about the dangers of discrimination and hate speech and their effects on society.

8_ Collecting and centralizing data related to discrimination and hate speech.

9_ Completing studies and research in the field of prevention of discrimination and hate speech.

10_ Submitting any proposal that would simplify and improve the national legal system for preventing discrimination and hate speech.

11_ Developing cooperation and exchanging information with various national and foreign institutions working in this field enables the Observatory to provide any administration, institution, body or department with every information or document necessary to accomplish its tasks, which must respond to its correspondence within a maximum period of 30 days.

From the above, it is clarified that the Algerian legislator has assigned the National Observatory for the Prevention of Discrimination and Hate Speech with broad preventive powers. This latter is responsible for monitoring manifestations of discrimination and hate speech, and proposing the necessary measures to combat them. However, the powers are not limited to the National Observatory alone, but are also carried out jointly by the public authorities, the various actors in this field and civil society, as well as the competent judicial authorities.

second requirement: Protecting victims of discrimination and hate speech

The Algerian legislator, in accordance with Law No. 20/05 mentioned above, has allocated, within its third chapter, the way of protecting victims of discrimination and hate speech. This protection is represented in two types including social protection and judicial protection when victims resort to the judiciary. This is what we will try to clarify further within this chapter, which we will divide into the first section: social protection for victims of discrimination and hate speech, and the second section: judicial protection for victims of discrimination and hate speech

First section: Social protection for victims of discrimination and hate speech

The various manifestations and methods of discrimination led to the necessity of strict restrictions that stem from the principles of citizenship, coexistence, and the revival of human dignity. Therefore, protection must be guaranteed to the victims of discrimination and hate speech, which is what was stipulated in Law 20/05. This latter enables them to receive social protection that the state ensures through health, psychological and social care in a way that guarantees their security, safety, psychological and physical sanctity, in addition to their dignity, which the constitutional provisions were the first to protect.

Second\ Judicial protection for victims of discrimination and hate speech.

The state guarantees judicial protection to the victims of discrimination and hate speech, with reference to the text of Article 17 of Law 20/05, which states: “The state shall work to facilitate recourse for the victims of discrimination and hate speech.”

Likewise, the text of Article 18, included that victims of discrimination and hate speech benefit from judicial assistance by force of law. What we can conclude from what was previously illustrated is that the Algerian legislator guarantees legal protection for the victims of discrimination and hate speech crimes, by facilitating their recourse to the judiciary, and stipulates their benefit

from the judicial assistance by the force of law. The law also enables them to enjoy the special procedures of protecting victims and witnesses that was legally stipulated. In case that the act of discrimination and incitement to hatred still occurs, the victim can resort to the urgent judiciary to request any precautionary measure to be taken in order to put an end to this violation, with the possibility of imposing a threatening daily fine. Therefore, it is noted that the law has tried to establish mechanisms for protecting victims in case that the previously mentioned preventive means do not work. The most important of these means are the individual penalties and the judicial prevention, whose procedures must be addressed.

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