

## **Decision Establishing a Special Investigations Unit**

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The Attorney General

after consideration of Decree Law 42 of 2002 promulgating the Judicial Authorities Law and its amendments,

and on the basis of Decree Law 46 of 2002 promulgating the Criminal Procedure Law,

and given that the report of the Bahrain Independent Commission of Inquiry (*BICI*), in paragraph 1716 recommended the establishment of

**“a national independent and impartial mechanism to determine the accountability of those in government who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians with a view to bringing legal and disciplinary action against such individuals, including those in the chain of command, military and civilian, who are found to be responsible under international standards of ‘superior responsibility’.”**

and in light of the government’s commitment to the full implementation of the recommendations in the BICI report, and of the advice of the external legal advisory group regarding how best to achieve this,

and given that the implementation of this recommendation requires the creation of a specialised and independent unit in the Public Prosecution which assumes responsibility for identifying both issues attached to individuals and systematic issues attached to institutions, in all cases arising from the events which form the subject of the BICI report,

and in light of the recommendation of the external legal advisory group that “such a unit could properly be established within the Attorney General’s Office, led at senior prosecutorial level, and supplemented by specialist expertise and investigative capacity that will be necessary for it to fulfil its task”,

and in the framework of the general principles which guide the implementation, adapted from international law, which bind bodies concerned with investigation of human rights abuses and which are set out in paragraphs 9 to 19 of the advice dated 15 February 2012 presented by the external legal advisory group (annexed here),

and in light of the decision by the Supreme Judicial Council appointing an adviser with the responsibility of advising the Supreme Judicial Council on matters arising from the BICI report, and who will also act as independent adviser to the Special Investigations Unit, who will provide strategic advice and counselling to the Unit in the fulfilment of its mandate,

and within the framework of the reforms by the Attorney General, in his capacity as the individual responsible for the Public Prosecution and as member of the Supreme Judicial Council, which guarantees that a Special Investigations Unit will be established having the character and powers referred to above and possessing the human and financial resources which would enable it to fulfil its mandate efficiently and effectively,

has decided,

## **Article One**

A special unit named the “Special Investigations Unit” (the *SI Unit*) is hereby established in the office of the Attorney General. This unit will be led by an individual holding the rank of Head Prosecutor, and the unit will be under his direct supervision and responsibility. The unit will be staffed by seven prosecutors drawn from the Public Prosecution and holding at least the rank of “prosecution agent” who will be under the supervision and review of the head of the SI Unit, as well as under the supervision and review of the Attorney General in his supervisory capacity, as appropriate. The SI Unit will be supported by all necessary human and financial resources. The staffing and other resourcing of the SI Unit will be kept under constant review so as to ensure that the Unit is fully able to fulfil its mandate efficiently and effectively.

## **Article Two**

The SI Unit will be supported, in consultation with the head of the SI Unit, with the expertise and powers required by seconding a sufficient number of the judicial personnel known as “judicial police”, forensic doctors and forensic experts to it. This personnel will be under the direction and responsibility of the head of the SI Unit, and under the responsibility of the Attorney-General in his supervisory capacity, as appropriate.

## **Article Three**

The SI Unit will, at all times, undertake its work in accordance with international standards, including most importantly the Istanbul Principles on investigating and reporting on torture.

## **Article Four**

The SI Unit will be responsible for the determination of criminal accountability of those in government who have committed crimes of killing or torture or mistreatment of civilians, including those in the chain of command under the principle of superior responsibility. In circumstances in which the SI Unit determines that there is a *prima facie* case to be answered, relevant papers will be passed to the appropriate Government authority or agency for purposes of possible disciplinary or other proceedings under the authority of that department or agency.

## **Article Five**

The SI Unit will have responsibility for all cases arising out of the events of 2011 on which the BICI report was based, in addition to any other case that the Attorney General decided should be transferred to the Unit for investigation for whatever reason.

## **Article Six**

The head of the SI Unit will submit a monthly report to the Attorney General on the work of the Unit and the status of its investigations. That report will be made public but will not contain any details that would compromise the investigation, the rights of the accused or the confidentiality and protection of witnesses.

## **Article Seven**

The head of the SI Unit as well as its members will have unfettered access to the Independent Investigations Counsellor appointed by the Supreme Judicial Council, and he or she will similarly have unfettered access to them, as appropriate. The Independent Investigations Counsellor shall work closely with, and advise, the Attorney General on these matters.

## **Article Eight**

One or more human rights counsellors shall be appointed to advise the SI Unit, and to advise the Attorney General's office in general, on questions of international human rights law and standards relevant and applicable to their work.