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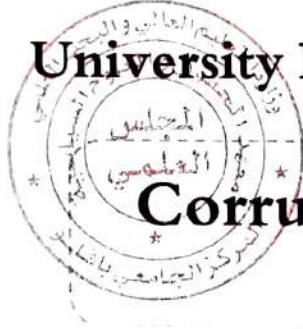
وزارة التعليم العالي والبحث العلمي

المركز الجامعي الشريف بوضوطة - آفلو

معهد الحقوق والعلوم السياسية

قسم الحقوق

University Publication Titled:



Corruption crimes

Prepared by: Dr. Megarin Youssouf

Professor Lecturer, Department A

Addressed to Third-year Law Students Academic Year: 2023-2024

Academic Year: 2023-2024



معهد: الحقوق والعلوم السياسية
المجلس العلمي
رقم: 063

أفلو في: 2025 / 05 / 14

مستخرج من محضر المجلس العلمي
رقم 11 بتاريخ 03 جويلية 2024

في جلسته المنعقدة بتاريخ 03 / 07 / 2024 وبناء على محضر المجلس العلمي رقم 11 وبعد الإطلاع على تقارير الخبرة الإيجابية المقدمة من طرف الخبراء صادق المجلس العلمي على اعتماد المطبوعة البيداغوجية التالية:

الرقم	عنوان المطبوعة	المقدمة من طرف
01	Corruption crimes	الدكتور(ة) مقرين يوسف

ملاحظة: سلمت هذه الوثيقة للمعنى (ة) لإستخدامها في حدود مايسمح به القانون.

رئيس المجلس العلمي

رئيس المجلس العلمي لمعهد
لحقوق والعلوم السياسية
أحمد كروش

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List of Symbols and Abbreviations

Ed: Edition.

C.I.C.R.: International Committee of the Red Cross.

Op.cit: work previously cited.

ibid: to avoid repetition when the same source has been cited in the previous reference.

p: page.

pp: from page to page.

Introduction:

Corruption has become one of the grave crimes that threaten the economies of nations at all levels and scales, considering its targeting of development in every financial and administrative setting in a manner that paralyzes it. This necessitates addressing this scourge through all possible means and methods. Algeria has enacted the Anti-Corruption Law No. 06-01 concerning the prevention and fight against corruption, which was amended and supplemented by Decree No. 10-5 and further amended and supplemented by Law No. 11-15. This latter law specifically reviews, through its Article 15, the criminalization of corruption in both its financial and administrative aspects as a measure to prevent threats to national security and the draining of wealth and financial resources. The result was a political and economic opening and the activation of the individual's role at the level of public policies and development strategies, the most recent of which was the enhancement of the involvement of civil society activity by a decision from the President of the Republic, **Mr. Abdelmadjid Tebboune**. This decision is considered one of the main approaches to studying the relationship between the constitutional alignment of 2020 and the Prevention and Fight Against Corruption Law No. 06-01, as amended and supplemented, particularly in the aspect that concerns the involvement of civil society organizations as a preventive measure to confront and combat corruption.

The dismal state that the Algerian economy has experienced over time due to the spread of this scourge compels us to explore the mechanisms adopted by civil society as a precautionary measure towards establishing principles of

transparency and participatory democracy, to avoid obfuscation, misinformation, and fallacies. From this standpoint, we can pose the following problem: How did the Algerian legislator establish the criminalization of financial and administrative corruption in a way that targets raising awareness and demands for transparency in management to confront enrichment at the expense of public funds?

To answer this problem, the researcher deemed it necessary to address the following key areas:

The first axis: The criminalization of corruption and the establishment of principles of transparency and awareness in financial and administrative management.

The second axis: Classification of corruption crimes according to Law No. 06-01, as amended and supplemented.

The third axis: Mechanisms for combating corruption in Algerian legislation.

Axis One: Criminalizing Corruption and Establishing Principles of Transparency and Awareness in Financial and Administrative Management

An observer of the Algerian legal system immediately recognizes that the Algerian legislator has not defined corruption to the extent that it

encompasses some of the acts that constitute such crimes.¹In turn, what we consider to be a departure from laws and regulations or exploitation of their absence to achieve financial, commercial, economic, or even political and social objectives for the benefit of a specific individual or group of individuals, corruption is characterized by a set of features that make its observation and confrontation extremely complex. Therefore, the Algerian legislator has directed towards introducing new methods to uncover and expose the embezzlement of public funds, as stipulated in Article 15 of the Law on Prevention and Combating Corruption No. 06-01, as amended and supplemented, which states: "Encouraging the participation of civil society in the prevention and combating of corruption."²

First: Criminalization of Corruption within the Algerian Legal System

There are multiple reasons for the proliferation of corruption crimes in societies in general, and in Algerian society in particular, considering that the motive for committing them is often self-interest, and the perpetrator is typically a public official, as clearly evident from a careful reading of the content of Article 02 of Law No. 06-01, as amended and supplemented,

which uses the phrase: "Corruption refers to all crimes stipulated in Chapter Four of this law... Every person holding a position," which indicates the

¹ Article 02_A of the Law on Prevention and Combating Corruption, dated February 20, 2006, as amended and supplemented by Decree 10-05 dated August 26, 2010, and further amended and supplemented by Law No. 11-15 dated August 2, 2011.

² Article 15 of the Law on Prevention and Combating Corruption, dated February 20, 2006, as amended and supplemented.

nature of the person committing this offense to serve a private interest, encompassing all categories mentioned in the same article: public servants, foreign public servants, and employees in foreign public organizations.¹

1: The Concept of Corruption and the Algerian Legislator's Stance on it

Some professors define corruption based on the criterion of deliberate misuse by employees of the apparatus of authority and public administration in a manner that contradicts relevant legal norms. Others view corruption as the theft of national wealth and the squandering of public funds. In light of these perspectives, **Dr. Mohamed Rashidi** directs his definition towards describing corruption as unethical behavior, a functional deviation from reform whose aim is the embezzlement of public funds and pursuit of personal interests.²

Dr. Faisal Aldulaimi defined corruption as: "Negative ethics that pervade financial and administrative institutions as a result of the prevailing culture in society and the value system, leading to various unethical behaviors such as bribery, embezzlement, and favoritism, which aim to deviate from the normal course of achieving legitimate goals."³

The Algerian legislator's stance on corruption crimes: Corruption is considered one of the social phenomena prevalent in all countries, whether

¹ Article 02_A of the Law on Prevention and Combating Corruption, dated February 20, 2006, as amended and supplemented.

² Bayoud, Rima. "Legal and Institutional Mechanisms for Combating Administrative Corruption in Algeria." Master's thesis submitted for the degree of Master of Political Science, Faculty of Law and Political Science, University of Biskra, p. 13.

³ Faisal Aldulaimi, "Administrative Corruption and Some of its Forms from the Perspective of Managers," University of Baghdad, Iraq, p. 10.

developed or developing, due to various reasons, including the absence of the principle of separation of powers and the loss of legitimacy. Additionally, other factors such as economic, ethical, and social factors contribute to its prevalence.

The different definitions of corruption, whether from a jurisprudential or legal perspective, will be the focus of research and study in this section.

We will examine here the meaning of corruption through linguistic and jurisprudential perspectives:

Firstly, the linguistic definition: The concept of corruption in language corresponds to the concept of righteousness, indicating a deviation from moderation or public welfare and is considered contrary to reform. Its usage in language encompasses various meanings such as theft, exploitation, corruption, harm, and injustice in wealth. It also signifies betrayal of trusts and deviating from integrity or moral values, while promoting wrongdoing through the use of illegitimate means or straying from what is pure and correct.¹

In "Mukhtar al-Sahah," the concept of corruption is explained based on the linguistic root "fasada." It is said that something "fasada" (with a sukun on the ya') and it becomes "fusidan" (with a fatha on the ya'), meaning it has become corrupted.²

Corruption linguistically originates from the three root letters: Fa, Seen, and

¹ Mohamed Hazit, Mechanisms for Combating Corruption Crimes in Algerian Legislation, 1st Edition, Algeria, Dar Al-Balqis, 2023, p. 98.

² Samia Hamrish, "Financial and Administrative Corruption: Causes, Manifestations, and Prevention Mechanisms Along with a Presentation of the Most Important International Experiences in Combating it," Al-Manar Journal for Legal and Political Research and Studies, 2018, Issue 5, p. 276.

Dal. It is used in language to mean the corruption or spoilage of something. For example, it is said, "The thing became corrupted, corrupting it" to indicate that it has become corrupt or spoiled. It is also used in the context of "Corrupted, corrupting it" to refer to the state of something that has become corrupt or unsound.¹

The topic of corruption has been extensively addressed in the Quran, appearing in nearly fifty verses, elucidating the concept of corruption, its associated meanings, types, severity, and the dire consequences it entails. Prophetic traditions also addressed this issue, emphasizing the importance of avoiding corruption and its various forms, and the necessity of embodying righteousness and engaging in virtuous deeds, thereby contributing to the construction of a cohesive and virtuous society.² When we talk about corruption, the reference points towards dual meanings; corruption in its apparent and general sense refers to the external appearance of behaviors and actions considered corrupt, while the phrase delves deeper into its essence to touch upon the actual content and nature of organized behavior and actions that misuse power or resources to achieve illegitimate benefits. Here, the focus is on individuals who engage in or partake in corruption activities in its various forms.³ the jurisprudential definition: Jurisprudence faces variability in defining corruption, due to the wide diversity in intellectual approaches and sources it draws from, leading to the emergence of multiple definitions that bear a

¹ Salama bin Salim Al-Rafa, "The National Anti-Corruption Commission and its Role in Combating Financial Corruption," 1st Edition, Saudi Arabia, Library of Economics and Law Riyadh, 2015, p. 27.

² "Samia Hamrash, the same reference, p. 278."

³ The same source, p. 277.

relative character, including legal, administrative, social, and political dimensions. This diversity in definitions and the lack of consensus around a specific concept of corruption is attributed to the widespread use of this term across different fields and domains, reflecting the complex and comprehensive nature of corruption as a phenomenon.¹

Among the definitions mentioned in this context is one that is based on the premise that corruption encompasses a range of actions that contradict laws and regulations, aiming to achieve personal interests at the expense of the public interest. Mentioned is the definition by Hunt–Jowett, who described corruption as behavior exhibited by public officials, deviating from agreed-upon standards to pursue personal goals and objectives.

These definitions highlight the illegal and unethical nature of corruption, focusing on the deviation of public officials from their duties and commonly accepted ethical values, leading to the pursuit of personal interests at the expense of the public good.²

Jurist Gardner affirmed that there is no consensus on defining corruption, attributing it to the comprehensive nature of daily political discourse on this subject." **Heid Nahamer**" agrees with this view, indicating that there are nine acceptable definitions of corruption, one of which, cited in the Oxford English Encyclopedia, addresses the essence of corruption in the political context, where corruption is considered a decline of the nation and its

¹ Abdul Ali Haja, Amal Yaish, "The completeness of electronic surveillance as a mechanism for investigating corruption crimes between the requirements of protecting rights and freedoms and the necessity of crime detection," Kuwait University Law School Journal, Research of the 5th International Conference, May 09–10, 2018, Issue 3, p. 346.

² The same source, p346.

abandonment of public duties due to bribery and favoritism. These definitions highlight the political aspect of corruption and emphasize that corruption leads to the decline of nations and their abandonment of their public duties, due to bribery and favoritism, which negatively affects state institutions and the governance system.¹

the diversity of corruption definitions stems from various intellectual and philosophical orientations, leading to multiple criteria for defining corruption. One of these criteria is the ethical or moral standard, which focuses on values and ethical principles in defining corruption.

For example, Webster's Dictionary formulated a definition of corruption that emphasizes the loss of integrity, virtue, and ethical principles. According to this definition, corruption is considered a distortion and destruction of moral values and ethical norms that are deemed fundamental for upright and responsible conduct in society.²

Another criterion for defining corruption is the criterion of interest, which focuses on the negative effects that corruption has on the public or communal interest. Among the scholars who adopted this criterion is the definition by Koper, who describes corruption as the misuse of public office or authority to achieve personal gains or illegitimate self-interests, resulting in harm to the public interest.

¹ Sarah Sultan, "Mechanisms for Combating Corruption Crimes in Algerian Legislation and Comparative Study", Doctoral Thesis in Legal Sciences, Faculty of Law and Political Science, University of Mohammed Ben Ahmed Oran 2, Mohammed Ben Hamad, 2018/2019, p. 16.

² The same source, p16.

As for the legal criterion in defining corruption, it focuses on the violation of legal rules imposed by the political system. Corrupt behavior is considered as behavior that violates these legal rules, whether they are anti-corruption laws or any other legislation aimed at preserving the integrity and transparency of governmental work and institutions.¹

The definition of corruption by international organizations reflects their efforts to unify concepts and define the scope of the phenomenon they seek to combat. Among these organizations, the United Nations conventions are mentioned, which have provided a clear definition of corruption. According to the definition of United Nations conventions, corruption is the exploitation by a public official of his position or acceptance of undue advantages, whether for his personal benefit or for the benefit of another entity, with the aim of executing or not executing his official duties.

This definition highlights the behavior of public officials who seek to achieve personal gains or benefit other entities by exploiting their positions and authorities. The aim of this definition is to delineate the scope of unethical behavior and to direct anti-corruption efforts towards addressing this type of misconduct.²

The International Development Fund defines corruption as a "long-arm relationship" aimed at obtaining specific benefits through that relationship between relevant individuals or groups. This definition can be understood as

¹ The same source, pp 17_18.

² Nour Eddine Bray, Naïma Amara, "The Effectiveness of Anti-Corruption Mechanisms in Achieving Sustainable Development in Algeria", *Journal of Economics and Development*, Volume 7, 2019, Issue 1, p. 31.

referring to the illegal exploitation of influence or relationships to achieve personal gain or specific interest, harming integrity and transparency in governmental work and public institutions.¹

The evolution of the Algerian legislator's stance on corruption crimes reflects an increasing interest in combating this phenomenon and providing the necessary legal framework to eliminate it. Initially, the Algerian Penal Code addressed corruption crimes in articles 119–134 in 1966.

However, with Algeria signing the United Nations Convention against Corruption in 2003, aimed at enhancing international cooperation in combating corruption and promoting integrity and transparency, changes were introduced to Algerian legislation. In 2004, the convention was ratified with reservations, and Presidential Decree No. 04–128 was issued on April 19, 2004, to coordinate national legislation with the convention.

On February 20, 2006, Law 06–01 was enacted concerning the prevention and combating of corruption, which repealed several articles of the Penal Code and introduced new provisions to strengthen anti-corruption laws. This law aims to support measures aimed at preventing and combating corruption, and enhancing integrity and transparency in public and private institutions.

Promoting integrity, accountability, and transparency in the management of both the public and private sectors is an essential part of the anti-corruption strategy. By reinforcing these values and principles in institutional and

¹ Mabrouk Bedour, "Transnational Financial Corruption Crimes in Light of International Law", *Journal of Legal and Political Sciences*, University of Mostaganem, June 2013, Issue 7, p. 119.

corporate governance, opportunities for corruption are reduced, and trust in the system is increased.

Facilitating international support and providing technical assistance in combating corruption is an important part of international cooperation in this regard. Through the exchange of knowledge and expertise, and the provision of financial and technical support, countries and international organizations can work together to enhance the capacity to combat corruption and implement effective legislation and policies in this regard.¹

Law 06-01, issued in Algeria on February 20, 2006, represents a significant development in the field of combating corruption. This law addresses anti-corruption mechanisms comprehensively, including corruption crimes in both the public and private sectors.

Among the key innovations of this law:

1. Anti-corruption mechanisms: The law mandates the development of effective mechanisms and structures to combat corruption, including the establishment of specialized executive bodies for anti-corruption efforts.
2. Expansion of the scope of crimes: The law provides an expanded definition of corruption crimes, including offenses that were not adequately addressed in previous penal codes.
3. Establishment of anti-corruption bodies: The law includes the establishment of independent bodies dedicated to combating corruption,

¹ Mohamed Hazit, "Mechanisms for Combating Crimes and Corruption in Algerian Legislation," as previously referenced, p. 18.

enhancing efforts in this field, and ensuring integrity and transparency in anti-corruption operations.

Overall, Law 06-01 is considered a significant step towards enhancing efforts to combat corruption in Algeria, providing the necessary tools and structures to mitigate this phenomenon and achieve integrity and transparency in both public and private affairs.¹

Preventive measures in the public sector aim to provide a legal and regulatory framework to enhance integrity, transparency, and combat corruption. In Law 06-01, these measures are introduced through means and mechanisms that concern public officials and are related to their duties and conduct. For example, in Article 02 of this law, corruption is defined and its scope is specified, with the text referring to crimes stipulated in the fourth chapter of the law.

Examples of preventive measures expected in the public sector include:

1. Establishing integrity and transparency standards: Clarifying the ethical standards and laws that public officials must adhere to in carrying out their duties.

2. Providing training and awareness: Offering training programs and awareness sessions for public officials about the risks of corruption, how to avoid it, and how to report any violations.

¹ Mohammed Hazzit, the same reference, p 18.

3.Strengthening supervision and monitoring: Establishing independent oversight bodies to monitor the behavior of public officials and ensure compliance with laws and ethical standards.

4.Encouraging internal reporting: Providing mechanisms and channels for internal reporting of any cases of corruption or ethical violations, while ensuring protection for whistleblowers and safeguarding them from retaliation.

5.Enhancing transparency: Publishing information related to government work and making it accessible to the public, including financial data, contracts, and administrative decisions.

These measures aim to enhance integrity and accountability in the public sector, reduce opportunities for corruption, and increase trust in the government and its institutions.¹

The Algerian legislature adopts an approach centered around identifying crimes related to corruption without explicitly defining corruption itself. The law defines corruption through the crimes mentioned in the fourth chapter of the law, allowing for the delineation of the scope and nature of behaviors considered corrupt and warranting legal accountability.

Additionally, the Algerian legislature has expanded the concept of public officials to include broader categories of individuals occupying various positions in the public sectors and state-owned institutions, whether they are salaried or unpaid. This expansion aims to unify the legal scope for the

¹ Law 06/01 dated 20/02/2006 regarding prevention and combating corruption, Official Gazette of the People's Democratic Republic of Algeria No. 14 dated 08/03/2006, page 5.

application of laws related to combating corruption on all individuals with diverse authorities within the public sector and related institutions.

The measures targeted at the public sector in combating corruption include several aspects related to public officials. Among these measures are:

1. Strengthening integrity and transparency standards: Setting clear ethical guidelines and legal obligations for public officials in the performance of their duties.

2. Enhancing supervision and monitoring: Establishing independent oversight bodies to monitor the conduct of public officials and ensure compliance with laws and regulations.

3. Providing training and awareness: Offering training programs and awareness campaigns for public officials to educate them about the risks of corruption and how to prevent it.

4. Encouraging internal reporting: Establishing mechanisms for internal reporting of corruption cases or ethical violations, while ensuring protection for whistleblowers.

5. Implementing disciplinary measures: Imposing penalties or disciplinary actions on public officials found guilty of corruption or unethical behavior, including dismissal, fines, or other sanctions.

These measures aim to foster a culture of integrity, accountability, and transparency within the public sector, ultimately reducing the prevalence of corruption and enhancing public trust in government institutions:

1. Adherence to codes of conduct: Public employees must adhere to codes of conduct that define ethical standards and professional responsibilities they must uphold in the execution of their duties.

2. Declaration of assets: Public employees are required to provide periodic declarations of their assets and sources of income to verify the absence of conflicts of interest or abuse of authority for personal gain.

3. Application of transparency principles in public procurement: Government entities and public institutions must establish transparent and objective procedures in public procurement processes, while encouraging freedom of tendering and equal opportunities among bidders.

4. Enhancing transparency in public financial management: Government entities and public institutions must take necessary measures to achieve transparency in the management of public financial resources and ensure their efficient and honest utilization.

5. Civil society participation: Encouraging and supporting civil society participation in anti-corruption efforts through raising awareness and supporting civil society initiatives in this regard.

6. Money laundering prevention: Government entities and public institutions must take necessary measures to prevent money laundering and rigorously enforce laws and regulations related to this matter.

Preventing money laundering: Government entities and public institutions must take necessary measures to prevent money laundering and rigorously enforce laws and regulations related to this matter.¹

Regarding preventive measures in the private sector, Law 06/01 provided a definition of the concept of "entity" in paragraph (h) of Article 02 of the same law. In this paragraph, the entity is defined as a set of material and non-material elements, including natural or legal persons, which are organized to achieve a specific goal.

Preventive measures in the private sector include several aspects, such as:

1. Enhancing corporate governance standards: Implementing strong corporate governance principles that promote transparency and accountability within companies, and mitigate opportunities for corruption and mismanagement.

2. Implementing anti-corruption policies and procedures: Developing internal policies and procedures to combat corruption and enhance integrity within private institutions, including mechanisms for internal reporting and investigation of potential corruption cases.

3. Promoting transparency and integrity in commercial relationships: Ensuring the application of principles of transparency and integrity in

¹ Mohammed Hazzit, lectures on the Anti-Corruption course aimed at third-year students of the General Law Department, Academic Year 2019/2020.

commercial relationships with customers, business partners, and suppliers, including public bidding procedures and contract documentation.

4. Awareness and training: Providing awareness and training programs for employees in the private sector about the risks of corruption and how to deal with them, in addition to promoting ethical culture and responsibility in the workplace.

Enhancing cooperation with judicial and administrative authorities: Collaborating with competent authorities to investigate potential cases of corruption and exchanging information, as well as cooperating effectively in law enforcement.¹

The legislator worked on enhancing protection of the private sector from corruption by establishing standards and procedures aimed at promoting integrity and transparency within private entities. These measures included:

.1 Codes of conduct: Developing internal ethical principles and codes of conduct for companies and private institutions to enhance integrity and prevent instances of corruption, through specific guidelines for the behavior of employees and managerial staff.

.2 Strengthening cooperation with regulatory authorities: Encouraging cooperation and coordination between regulatory bodies and private sector entities to detect and combat corruption, including internal auditing of private institution accounts.

¹ Law 06/01 dated 20/02/2006 concerning the prevention and combating of corruption.

.3 Adherence to accounting standards: Promoting adherence to international accounting standards and principles within companies and private institutions, contributing to improving the transparency of financial reports and preventing financial manipulation and corruption.

Articles 13 and 14 clearly stipulate these measures, emphasizing the legislature's determination to enhance integrity and combat corruption in the private sector.¹

Several new and significant crimes have been added according to Law 06/01, including the following:

.1 Abuse of power crime: Defined in Article 33 of the Anti-Corruption Law, it includes exploiting one's position or authority to obtain unjustified gains or to pursue personal interests at the expense of the public interest.

.2 Unlawful enrichment crime: Classified in Article 37 of the Anti-Corruption Law, it involves acquiring wealth or assets through illegitimate or unjustified means, without legal grounds to justify it.

.3 Receipt of undeserved gifts and benefits crime: Included in Article 38 of the Anti-Corruption Law, it encompasses the receipt of gifts or benefits that are undeserved by public or civil servants, negatively affecting their integrity and exposing them to corruption.

.4 Bribery in the private sector crime: Defined in Article 40 of the Anti-Corruption Law, it involves offering or accepting bribes or unjustified

¹ Maryam Yah, lectures on anti-corruption delivered to first-year doctoral students specializing in Administrative Law, Department of Law, Faculty of Law and Political Science, Mohammed Boudiaf University, M'sila, academic year 2021/2022.

benefits in the private sector, adversely affecting business transparency and undermining fair competition in the market.

Bribery of foreign officials crime from the Anti-Corruption Law.¹

Several procedural provisions have been introduced in the Anti-Corruption Law into the Algerian legal system, including:

.1 Investigation and surveillance methods: According to Article 56 of Law 06/01, the scope of available methods for investigating and combating corruption has been expanded, including search, inquiry, monitored delivery, and undercover operations, matters that were not previously known in the legal system.

.2 Non-prescription in certain cases: Under Article 54 of the law, the principle of non-prescription has been established in some cases, including crimes stipulated by the law, to ensure that legal accountability is not evaded due to the passage of time. The statute of limitations is determined according to the crimes in accordance with legal provisions.²

The International Monetary Fund (IMF) also provided a definition of corruption, considering it as: "Deviation from the normal course of public service to achieve personal gains, prompting the employee to receive bribes in exchange for facilitating a contract or conducting a public tender, or

¹ Law 06/01 dated 20/02/2006 concerning the prevention and combating of corruption.

² Article 29 stipulates imprisonment from two to ten years and a fine ranging from 200,000.00 DZD to 1,000,000.00 DZD for any public official who embezzles, damages, dissipates, or intentionally retains, without right, or unlawfully uses, for their own benefit or for the benefit of another person or entity, any public or private property, funds, securities, or any other valuable items that have been entrusted to them by virtue of their duties or by any other means.

stealing state funds.¹

So, all of these definitions consider corruption as the exploitation of public authority to achieve personal gains at the expense of national laws, legislation, and ethical norms within society. Algeria is considered one of the countries where this phenomenon has proliferated strongly, to the extent that the former President of the Republic stated in a speech delivered on April 27, 1999, that "Algeria is a country suffering from corruption, and the public treasury has incurred significant losses due to the embezzlement of public funds."² As a result, the Algerian legislator proceeded to issue Decree No. 10-5, which was enacted pursuant to Article 24 repeated of it by the Central Office for Combating Corruption, which commenced its duties under Presidential Decree No. 11-426, which addresses issues related to the investigation and inquiry into corruption crimes. Furthermore, it amended Article 09 of Law No. 06-01, adding a level of seriousness and transparency to the conclusion and management of public contracts in the section related to objectivity, integrity, and the exercise of legitimate challenge methods. Subsequently, Decree No. 10-05 was further amended and supplemented by law.

As a result, Decree No. 11-15 led to the amendment of Articles 26-29 of Law No. 06-01, which introduced transparency and equality criteria regarding provisions related to the conclusion or approval of public contracts. Due to the changes that Algeria underwent in the second half of

¹ Ali Bakshish, "Corruption: Problem of the Century, Concepts, Methods, and Solutions," *Economic Studies Journal*, University of Laghouat, [Volume B], January 15, 2011, p. 250.

² Mahmoud Abdel Fadil, "The Concept of Corruption and its Criteria," *Al-Mustaqbal Al-Arabi Magazine*, Issue: 309, November 2004, p. 37.

2020 as a result of successive events, the Algerian legislator reinforced its judicial system with deterrent and punitive measures, foremost among them being the preparation of a draft constitution for the year 2020, through which civil society's activity in confronting this plague is enhanced. Additionally, new laws were issued to combat all types of crime, especially those related to combating money laundering, financing terrorism, combating smuggling, and preventing and combating illegal trafficking in drugs, as well as exempting perpetrators of such crimes from presidential pardon and intensifying punishment for offenders to curb the proliferation of this scourge.¹

"The Algeria has ratified the United Nations Convention against Corruption.² "In accordance with Presidential Decree No. 04-128 dated April 19, 2004, which coincided with a review of the legislative and punitive system to align with relevant laws, Algeria also ratified the African Union Convention on Preventing and Combating Corruption on July 12, 2003. These actions reflect the Algerian judicial system's commitment to criminalize corruption, aiming to prevent any actions targeting public funds³.

¹ Refer to Articles 25-26-27-28-29-30-31-32 of Law No. 06-01 on Prevention and Combating Corruption, as amended and supplemented.

² The United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on October 31, 2003, was ratified by Algeria with reservations pursuant to Presidential Decree No. 04-128 dated April 19, 2004.

³ "The Law No. 06/01, dated February 20, 2006, was issued following the approval of the United Nations Convention against Corruption in 2003, under Presidential Decree 128.04 dated April 19, 2004. Through this law, the Algerian legislature adopted a descriptive approach in defining corruption by specifying its forms and manifestations. Article 02, paragraph A of the Law on Prevention and Combating Corruption states that it encompasses all crimes stipulated in the fourth chapter of this law.

2 :Legal Analysis of Law No. 06–01 on Prevention and Combating Corruption, as Amended and Supplemented.

"A careful reading of Article 02 of the amended and supplemented Anti-Corruption Law reveals certain elements that need to be examined in detail, including: 'A) Corruption encompasses all crimes stipulated in the fourth chapter of this law.¹ The Algerian legislature's attention to enumerating corruption crimes under the title 'Criminalization, Penalties, and Investigation Methods of Bribery of Public Officials' left no room for doubt, with a clear focus on two primary and subsequent stages. Article 25 was utilized to emphasize phrases such as 'anyone who promises a public official,' confirming the Algerian legislature's concern with criminalizing this menace at an early stage. The promise mentioned in the aforementioned Article 25 precedes the actual commission of the corruption crime by offering an undue advantage to a public official or granting it. Conversely, in the corresponding scenario, the second paragraph of the same article was used to phrase 'any public official directly or indirectly solicits or accepts an undue advantage... to perform or refrain from performing an act.'² Likewise, it also criminalizes this menace at a subsequent stage to the commission, thereby addressing the temporal context of preventing the execution of the corruption crime³. Article 26 of the same law, titled "Unjustified Privileges in Public Procurement," also addresses important aspects by criminalizing the

¹ Article 02 of Law No. 06–01 on Prevention and Combating Corruption, as Amended and Supplemented.

² Please refer to Paragraph 1 of Article 25 of Law No. 06–01 on Prevention and Combating Corruption, as Amended and Supplemented.

³ Paragraph 2 of Article 25 of Law No. 06–01 on Prevention and Combating Corruption, as Amended and Supplemented.

actions of public officials, traders, industrialists, artisans, or contractors in the private sector, as well as any individual, even if indirectly involved in contracting or concluding a deal with the state. This includes benefiting from any authority or influence aimed at increasing prices or obtaining any service for their benefit.¹ Then, the Algerian legislature swiftly addressed this issue and amended Article 26 accordingly, introducing the responsibility of 'any public official who deliberately grants unjustified privileges to others when concluding or endorsing a contract, agreement, deal, or annex that violates legislative and regulatory provisions related to candidacy freedom, equality among candidates, and procedural transparency.

"Shortly thereafter, the Algerian legislature swiftly amended Article 26, embodying the responsibility of 'any public official who deliberately grants unjustified privileges to others when concluding or endorsing a contract, agreement, deal, or annex that violates legislative and regulatory provisions related to candidacy freedom, equality among candidates, and procedural transparency.

The content of the amended and supplemented Article 26 under Law No. 11-15 aligns with Article 10 of Law No. 06-01, as amended and supplemented. Article 10 of Law No. 06-01 emphasizes the adoption of measures for transparency, integrity, accountability, and rationality in managing public funds. Failure to adhere to these principles constitutes a complete corruption offense, subject to prosecution and punishment according to Articles 25 and subsequent articles of Law No. 06-01, as

¹ Please refer to Article 26 of Law No. 06-01 on Prevention and Combating Corruption, as Amended and Supplemented.

amended and supplemented.¹

"The two articles, 27 and 28, titled 'Bribery in Public Procurement' and 'Bribery of Foreign Public Officials and Officials of International Public Organizations,' respectively, utilized certain indicative phrases such as: 'Punishable by imprisonment for a term of ten (10) to twenty (20) years and a fine of: 1,000,000 to 2,000,000,' indicating a strict penalty for perpetrators of these crimes. This leaves no room for doubt regarding the prevalence of this phenomenon, which has raised concerns among the Algerian legislature and is draining public funds. Furthermore, the article proceeds to address, in a secondary stage, phrases such as: '...any public official who accepts or attempts to accept for themselves or others directly or indirectly...' thereby enumerating the parties benefitting from this corrupt money, which may include a public official, a high-ranking authority in the state, or any other person outside the official framework." ²

"Article 29 of the same law, as amended and supplemented by Law No. 11-15, titled 'Embezzlement of Property by a Public Official or Its Unlawful Use,' focuses on enumerating crimes committed by a public official occupying a position that may allow them to benefit from, encroach upon, or unlawfully use public funds. It emphasizes the phrase 'deliberately dissipates,' compared to the previous article which chose the phrase 'embezzles or damages,' leaving no doubt about the Algerian legislature's concern regarding the phenomenon of squandering public funds. We can observe that the content of the amendment largely aligns with the content of

¹ Article 10 of Law No. 06-01 on Prevention and Combating Corruption, as Amended and Supplemented."

² Article 27 of Law No. 06-01 on Prevention and Combating Corruption, as Amended and Supplemented."

Article 03 of the second chapter titled 'Preventive Measures in the Public Sector Employment.' This article raised a highly important point about developing educational and training programs to enable public officials to perform their duties correctly, ethically, and soundly, and to provide them with specialized training to increase their awareness of the risks of corruption."¹ "We consider this to be a preliminary stage that may prevent the commission of such crimes. Therefore, it is incumbent upon public administration, as a precautionary and responsible measure, to schedule training days and regular meetings to raise awareness about the dangers of corruption of public funds.

Articles 32 and 33 of the same law criminalize the abuse of power and the misuse of position, committed by a public official in order to perform or refrain from performing an act that violates applicable laws and regulations in the field. To illustrate this, Article 32 employs phrases such as "anyone who promises a public official..." and "every public official."² "The Article 33 utilized phrases such as 'every public official...abuses his position...' which, in our view, emphasizes the necessity of reviewing the appropriate procedures for selecting and training individuals nominated for public positions that are more susceptible to corruption, in line with the provisions of Article 3 of Law No. 06-01 on Combating Corruption, as Amended and Supplemented."³

¹ Article 3, Paragraph 4 of Law No. 06-01 on Prevention and Combating Corruption, as Amended and Supplemented.

² The public official is any person who occupies a legislative, executive, administrative, or judicial position, whether appointed or elected, permanently or temporarily, and whether paid or unpaid."

³ "Article 3, Paragraph 2 of Law No. 06-01 on Prevention and Combating Corruption, as Amended and Supplemented."

The Algerian legislature, through Articles 34 to 37, has enumerated crimes related to conflict of interest, illegal benefits, non-disclosure or false disclosure of assets, and illicit enrichment. All of these crimes are limited to the public official. To illustrate this, the aforementioned articles reiterated the phrase "every public official." This raises questions about the nature of official activity and its direct relationship to corruption issues. Indeed, this inquiry leads us to raise recurring issues regarding legal oversight measures and the psychological impact on public officials. In this regard, **Dr. Mohammed Qadri Hassan** raised the psychological impact of the relentless pursuit of quick wealth without effort as one of the fundamental factors contributing to the spread of corruption.¹ Furthermore, and in order to embody a comprehensive legal system, it is imperative to monitor and follow up on the psychological well-being of employees through organizing regular psychological assessments and sessions to prevent the squandering of public funds.

In the final stage, Articles 38 to 43 of the same law criminalize the following actions: receiving gifts, hidden financing of political parties, bribery in the private sector, embezzlement of assets in the private sector, money laundering, and concealment.

It should be noted within this context that technological advancements and the expansion of globalization have removed all boundaries and limitations, turning what was once domestic crimes into transnational offenses with an international dimension. This necessitates the development of criminal and punitive policies and the modernization of financial control systems. Such

¹ Mohammed Qadri Hassan, Administrative Corruption, Police Thought Magazine, Volume 15, Issue 15, Sharjah Police Research, 2006, p. 208.

progress can only be achieved through international cooperation in combating both financial and administrative corruption. ¹Indeed, the amended and supplemented law related to combating corruption specifically addressed the issue of international cooperation in its entirety in Chapter Five. It includes a series of measures and provisions outlined in Articles 56 to 70 aimed at uncovering financial operations associated with corruption and addressing them through **Algerian–foreign judicial integration**.¹

Secondly: The Impact of Corruption on the Financial and Administrative System in Algeria

The forms and types of corruption vary in Algerian legislation based on their areas of proliferation, and these types are divided into several categories, including legal corruption, judicial corruption, political corruption, and financial and administrative corruption. In this publication, I will discuss financial and administrative corruption, which have become an international problem affecting several countries around the world. The extent of their spread varies from one country to another based on laws, cultures, political, and economic conditions in each country.

Section One: Financial corruption is considered a global phenomenon that has acquired an economic and social character, where financial corruption is defined as a set of unlawful behaviors in the financial field. This includes deviation from the financial laws and regulations that govern financial

¹Mustafa Taher, *Legislative Confrontation with the Phenomenon of Money Laundering from Drug Crimes*, Police Printing Press, Cairo, 2002, p. 448.

activities in the state and its institutions. It encompasses violations of instructions issued by financial regulatory bodies, and the misuse of financial authority for personal gain at the expense of the public interest.

This concept includes a wide range of illegal activities, such as forgery, bribery, exploitation of confidential information, money laundering, smuggling of funds, financial fraud, manipulation of the stock market, and others. Financial corruption causes significant economic losses to countries and citizens, in addition to deteriorating the financial system and trust in it.

Combating financial corruption requires adopting comprehensive strategies that include tightening financial oversight, enhancing transparency and accountability, promoting legal and ethical culture in society, and bolstering international cooperation to fight this cross-border phenomenon.²

Financial corruption refers to illegal and unethical behaviors that cause a deviation from public interests and the exploitation of public funds for personal or private interests of individuals or entities. This definition encompasses behaviors such as bribery, financial fraud, manipulation of government contracts, exploiting official positions for illicit gains, and other acts that negatively impact public institutions and citizens.

Financial corruption is a serious threat to the economic and social system, negatively affecting economic growth, undermining trust in the government

¹ Ahsan BousQuaa, "Al-Wajiz fi al-Qanun al-Jaza'i al-Khas: Crimes of Financial and Business Corruption, Forgery Crimes," Part Two, Dar Homa for Printing, Publishing, and Distribution, Algeria, 2000, p. 33.

² Imane Boukassa, "The Dilemma of Financial Corruption in Algeria," The Scholar Researcher Journal for Legal and Political Studies, Larbi Tebessi University, Tebessa, 2018, p. 354.

and institutions, increasing the gap between the rich and the poor, and hindering sustainable development.

To combat this phenomenon, there is a need for legal reforms and effective oversight measures, in addition to enhancing transparency and accountability, and promoting awareness of public service ethics and combating bribery and corruption. This also requires strong international cooperation for the exchange of information and expertise and the application of international laws related to combating financial corruption.¹

Financial corruption also includes the individual employee's behaviors that result in negative violations during financial transactions, whether these transactions relate to public interest or the interest of citizens dealing with the institution. These behaviors include several violations such as:

.1 Bribery: Where the employee accepts financial amounts or gifts from individuals or companies in exchange for facilitating their financial transactions, leading to personal gains at the expense of the public interest.

.2 Manipulation of information: The employee changes or manipulates financial information for personal gain or for the benefit of other parties in exchange for financial compensation.

¹ Yamina Ati, "Financial and Administrative Corruption: Concepts, Causes, Forms, and Its Effects on Economic Development," a research paper presented at the 1st National Symposium on Corruption and its Impact on Economic Development, Faculty of Economic Sciences, Commerce and Management Sciences, Mohamed Khider University of Biskra, May 24–25, 2018, p. 3.

.3 Deliberate delay in completing transactions: The employee deliberately delays the completion of financial transactions for individuals or companies in exchange for receiving bribes or personal benefits.

.4 Impersonation: The employee pretends to have authority or qualities under which they deal with financial transactions, leading to exploitation of the situation to achieve personal gains or for the benefit of other parties.

These behaviors are considered serious violations that negatively affect the institution's reputation, increase levels of financial corruption, and undermine trust between citizens and government entities and financial institutions. Therefore, stringent measures must be taken to combat this phenomenon and enhance integrity and transparency in financial work.¹

Financial corruption can be defined legally as the misuse or diversion of public funds to achieve private interests, or the unlawful exchange of money for a specific service or influence. This definition also includes embezzlement of public funds without justification, or exploitation of financial authority for personal gain.

Financial corruption is considered a reprehensible and deviant behavior that causes significant material losses to citizens, institutions, and society as a whole. It tarnishes the financial and economic system, undermines trust in the government and public institutions, and hampers economic and social development.

¹ Samia Hamrach, "Financial and Administrative Corruption: Causes, Manifestations, Prevention Mechanisms, with an Overview of the Most Important International Experiences in Combating It," p. 279.

One of the worst aspects of financial corruption is that it can lead to impunity for those responsible. Corrupt individuals may evade scrutiny and accountability within government institutions, making it difficult to achieve justice and hold wrongdoers accountable.

To combat financial corruption, it is crucial to enhance oversight and transparency in the management of public funds and to strengthen penalties for those involved in corruption. Additionally, promoting awareness of ethics in public service and encouraging reporting of any instances of corruption are essential steps in fighting against it.¹

The causes of financial corruption arise from several aspects:

.1 Political Causes:

- ✓ Weak political structures and lack of political awareness.
- ✓ Lack of separation between legislative, executive, and judicial powers.
- ✓ Inadequate role of media and journalism, and weak civil society in combating corruption.

.2 Economic Causes:

- ✓ Poor economic conditions that incentivize corrupt behavior.

These causes create an environment conducive to financial corruption, either through bribery to facilitate transactions or financial dealings outside

¹ Salihah Boujadi, "Mechanisms for Combating Financial and Administrative Corruption Between Islamic Jurisprudence and Algerian Jurisprudence," doctoral thesis submitted to obtain a Ph.D. in Islamic Sciences, specializing in Sharia and Law, Faculty of Islamic Sciences, El Hadj Lakhdar University, Batna 1, 2017/2018, p. 149.

legal frameworks, or through other means involving the misuse of power and financial resources for personal gain at the expense of the public interest.¹

The injustice in wealth distribution within society leads to economic disparities between social classes, where certain groups accumulate vast wealth while others remain in poverty and need. This disparity in distribution can result in social injustice, increased tension, and instability within society. It is essential to achieve fairness in wealth distribution to ensure equal opportunities for all and to achieve sustainable development and social stability.²

Money laundering is an illegal process that involves converting funds acquired through unlawful means into legal ones, usually as a result of financial and administrative corruption. This includes the use of bribery, favoritism, nepotism, and intermediaries by officials and employees to facilitate money laundering activities and pass illegal activities. Money laundering is considered one of the most dangerous forms of financial corruption, as it allows financial crimes and criminal organizations to convert illegally obtained funds into legitimate ones that are difficult to trace, thereby increasing security and economic threats.³

Money laundering is defined as the transfer and movement of assets that are considered proceeds from crimes for the purpose of concealing their unlawful source. Algeria has addressed this phenomenon through Law 05/01

¹ Imane Boukassa, same reference as above, p. 354.

² Salihah Boujadi, same reference as above, pp. 165–166.

³ Imane Boukassa, same reference as above, p. 356.

issued on 06/02/2005, which obligates banks, financial institutions, and Algeria Post to report cases of money laundering.

As for tax and customs evasion, it often involves private sector businessmen who pay bribes to obtain tax or customs reductions or exemptions, which are among the most prominent economic crimes. Algerian legislation has not specifically defined tax evasion, but it has described it as tax or fiscal fraud, and defined it as the non-compliance with full or partial tax payment obligations to the financial authorities, affecting the state's tax revenue.¹ Parallel economy is closely linked to financial corruption in Algeria. Concepts and terminology surrounding the parallel economy vary, but generally refer to activities conducted secretly and illegally, such as drug trafficking, expressing the illegitimacy and illegality of these activities.² Administrative corruption is associated with public functions and civil servants, encompassing illegal or unethical activities carried out by employees in the execution of their governmental duties. The employee is considered the primary actor in committing acts of administrative corruption.³

Administrative corruption, as defined by jurisprudence, is the exploitation by public officials of their official positions to achieve personal gains at the

¹ Khaleda Ben Bialash, "Combatting Tax Evasion and Fraud in Algerian Legislation," *Future Journal of Legal and Political Studies*, Issue 5, 2021, Vol. 2, p. 32.

² Hakima Halimi, Yusra Hamza, "The Role of the Parallel Economy and Economic Corruption in Influencing the Transition Towards a Productive Economy in Algeria: An Analytical Study," *Namaa Journal of Economics and Trade*, Issue 6, 2021, Vol. 1, p. 247.

³ Issam Abdel Fattah Matar, "Administrative Corruption Crimes: A Comparative Analytical Legal Study in Light of International Agreements, Criminal Legislation, and Anti-Corruption Laws in Arab and Foreign Countries," Ph.D. dissertation, Egypt, Dar Al-Jamiaa Al-Jadida, 2011, p. 7.

expense of the public interest of the institution they work for. This is done through accepting bribes, extortion, and committing various acts such as embezzlement, which may occur in the absence of genuine accountability or transparency in state affairs.

.1 Lack of professional ethics among employees, where they exploit their positions for personal gain.

.2 Lack of trust in governing systems, with these systems often resorting to control and dominance rather than providing an enabling environment for combating corruption.

.3 Weak governance systems and ambiguity in economic transactions, facilitating manipulation and abuses.

.3 Political indifference towards combating corruption by political leadership.

.4 Low salaries and lack of material and moral incentives for employees, which may drive them to accept bribes or engage in unethical practices.

.5 Weak political competition due to the absence of democracy, allowing senior officials to evade accountability and oversight.

Forms of administrative corruption vary and include:

.1 Financial deviations: Involving financial violations by employees, such as negligence or dereliction of financial duties and violation of financial laws and regulations.

.2 Organizational deviations: Involving violations directly related to the employee's work, such as improper performance of duties or violation of information confidentiality.

.3 Behavioral deviations: Involving criminal offenses committed by employees, such as bribery, embezzlement, and forgery in official documents.

Administrative corruption is further classified into major or minor corruption, organized or unorganized corruption, depending on the extent of regularity of behavior. Administrative corruption is characterized by secrecy and rapid spread, especially when practiced at higher levels.¹

Corruption, forgery, embezzlement, misappropriation of public funds, their squandering, abuse of power, and clandestine financing of political parties constitute the most significant manifestations of corruption in Algeria. Corruption has negative effects both financially and administratively, summarized as follows:

1: The Impact of Corruption on the Financial System in Algeria

Corruption affects economic development by targeting foreign investments and causing the flight of domestic capital. The magnitude of this corruption prevents these economies from addressing development challenges, undermines financial accountability, hinders the flow of foreign investment, weakens economic performance, reduces trust in the legal and judicial

¹ Ben Amar Aouaj, Nadiya Amina Kari, "Combating Administrative Corruption in Algeria Between Regulatory Measures and Preventive Controls," *Madarat Al-Siyasiya Journal*, University of Tlemcen, Vol. 3, 2019, Issue 4, p. 92.

systems, obstructs the ability to retain highly skilled employees, and results in the waste of resources and funds.¹

Unemployment and social unrest: Unemployment rates tend to rise during economic downturns, wars, and natural disasters as a direct result of financial crises, which are directly attributed to poor planning of financial institutions, in addition to cyclical unemployment and increasing waste of public funds.²

Squandering national resources due to personal interests conflicting and colliding in the absence of proper legal regulation: This is a contemporary manifestation of corruption, as it involves officials exploiting their positions and leadership roles to serve their own interests and those of their partners, contradicting the optimal distribution of resources, preserving public funds, and undermining the sense of justice and equality before the law.³

The emigration of national economic competencies is often attributed by many researchers to the lack of suitable job opportunities that match their levels of expertise and practical experience in their home countries. Consequently, talented individuals migrate from countries where the supply of labor outweighs demand to countries where demand is on the rise. The absence of suitable employment opportunities in their home countries serves as a driving force for migration to nations where demand for their skills is increasing and where better living conditions and job prospects are

¹ Please refer to the website :<http://afedmag.com/web/ala3dadAlSabiaSections>

Date of Access: March 23, 2024, at 18:40.

² Please refer to the website: <https://www.layalina.com/>

Date of Access: March 25, 2024, at 13:40.

³ Ziyad Ahmed Bahaa El Din, "Conflicts of Interest in the State and Society," Arab Anti-Corruption Organization Conference, September 2015, pp. 8-12.

available.¹

Corruption cripples government agencies responsible for production and development, and weakens public institutions and civil society organizations. Financial corruption targets the state's financial apparatus by reducing production levels and weakening the developmental infrastructure as a result of squandering public revenues, which inevitably weakens the national economy.²

2: The Impact of Corruption on the Administrative System in

Algeria

Corruption reflects on the administrative system in the form of administrative, functional, or organizational deviations, as well as the violations committed by public employees during the performance of their duties, which we summarize as follows:

- Absence or weakness of public service ethics: The flexibility of job behavior and the ethics of public service are an essential necessity in public administrations, not only in making the public service more upright and responsive to professional development in the field of public administration and the effective performance of duties but also in prioritizing public service over self-service. The lack of this characteristic inevitably leads to

¹ Please refer to the website: <https://www.islamweb.net/newlibrary/display>

Date of Access: March 22, 2024, at 11:40.

² ALBERT honlonkou, corruption inflation croissance et développement humaine durable, modes en développement VOL, 31-2003/3n 123, pp94-96

prioritizing self-service over public service, which harbors negative outcomes affecting administrative activity.¹

●The absence of legal accountability contributing to the spread of administrative corruption: Enhancing the legal framework for combating or limiting corruption, which is met with the actual application of relevant laws and regulations, requires a clear vision that interacts with all the state's legislative, judicial, and executive bodies, each within its jurisdiction, and addressed progressively. It is essentially about building a strong fortress against those who dare to encroach on public funds.²

●The prevalence of bureaucracy and weak coordination in administrative work: Bureaucracy is considered one of the strongholds of corruption that undermines administrative activity in favor of certain groups at the expense of others. Consequently, it hampers interests and transactions, prioritizing arbitrariness over optimal application and interpretation of legal texts.³

●Contradictory legislation, abundant interpretations, and ineffective oversight bodies: The lack of adherence to individual controls and values, coupled with the failure to pursue administrative reforms and fill the gaps in legislative development, provides an opportune environment for exploiting loopholes instead of pressing decision-makers and legislators to constantly review and update laws. This situation is fertile ground for administrative

¹ Aboud Najm Aboud, Knowledge Management: Concepts, Strategies, and Processes, [n.p.], 1st Edition 2005, p. 17 and beyond.

² Jamal Awda Ibrahim, Corruption Has Laws and Government Facilitations," available on the website: [Website URL]: <https://annabaa.org/arabic/goodgovernance/24894>

³ Hassan Abdullah Aloush, "Bureaucracy: The Breeding Ground for Corruption," Elite Writers of Finance and Economics, [Publisher Not Specified], [Edition Not Specified], [Year Not Specified], p. 65.

abuses, particularly in financial matters.¹Therefore, based on the aforementioned data, the importance of involving civil society organizations becomes evident in a context characterized by radical and qualitative transformations within the Algerian judicial and constitutional system for the year 2020.

Axis Two: Classification of Corruption Crimes According to Law No. 06-01, as Amended and Supplemented

_1Bribery of Public Officials

The Algerian legislator, like other criminal legislations, did not define the crime of bribery, leaving it to jurisprudence. The latter has seen various definitions, among which the most important are:

"Bribery is the trafficking in job duties or services, exploiting them by the perpetrator requesting, accepting, or receiving a gift, promise thereof, or any other benefit in order to perform or refrain from performing a job duty. It also refers to an employee trafficking in his job duties by reaching an agreement or understanding with the needy party to accept what the latter offers as a benefit, gift, or any other advantage in order to refrain from performing a duty within the scope of his job or jurisdiction."²

The Algerian legislator has distinguished between two types of bribery: bribery involving public officials and bribery in the context of public

¹ Mohammed Fathi Eid, Organized Crime and Corruption, Paper presented at the International Conference on Combating Corruption, Naif Arab University for Security Sciences, Riyadh, 2003, p 712.

² See: Hajaj Malikah, "The Crime of Bribery of Public Officials under the Law on Prevention and Combating of Corruption," Journal of Rights and Humanities, Issue: 01, 2017, p. 345.

contracts. The former is subject to penalties outlined in Article 25 of the law, ranging from two to ten years of imprisonment, primarily targeting public officials who perform or refrain from performing an act, either directly or indirectly, in exchange for something of value. The crime of bribery in Algerian law is based on two fundamental pillars: the material element and the moral element.

First: The Material Element

The material element refers to the physical activity or criminal conduct of the perpetrator of the crime, which varies in nature from one offense to another.

In order to establish the penalty for the crime of bribery in Algerian law, the material element consists of an act through which the employee solicits a bribe in any way, in exchange for performing an action or refraining from doing something.

For example, it could involve requesting a monetary payment through a specific gesture, verbal communication, or in writing. It could also involve an offer from the interested party to provide a bribe and the acceptance of the bribe by the corrupt employee. In both cases, bribery constitutes a criminal offense.

Second: Moral Element

As for the mental element required for imposing a penalty for the crime of bribery in Algerian law, it refers to the thoughts or intentions of the perpetrator that led to the commission of the crime, known as criminal

intent.¹

2- Bribery in Public Procurement

The most commonly used categories in the field of administrative contracts, due to the substantial amount of money involved in this context, are subject to the provisions of the Law on Prevention and Combating of Corruption, specifically regarding the crime of bribery in public procurement under Article 27. This article stipulates that: "Any public official who directly or indirectly accepts or attempts to accept remuneration or benefit of any kind in connection with the preparation or negotiation for the purpose of concluding or executing a contract or agreement or annex on behalf of the state, local authorities, public administrative institutions, industrial and commercial public institutions, or economic public institutions shall be punished by imprisonment for a term of 10 to 20 years and a fine of 100,000 DZD to 2,000,000 DZD.

The nature of the perpetrator: The perpetrator is defined as a public official within the criminal concept of the Law on Prevention and Combating of Corruption.

¹ See: Bribery Penalties in Algerian Legislation on the Website: <https://www.legal-advice.online>.

As for the material element, it includes the following elements:

Criminal activity: It involves the acceptance or attempted acceptance of a commission, referred to by the legislator as a benefit or fee, whether tangible or intangible. Attempting to obtain it is also criminalized. It appears that this act, once committed, constitutes a complete crime, whether it is offered directly to the perpetrator or to others, directly or indirectly.¹

3: Bribery of public officials or employees of international organizations

as stipulated in Article 28 of the Law on Prevention and Combating of Corruption, is punishable by imprisonment from two to ten years and a fine ranging from 20,000 DZD to 1,000,000 DZD. This includes:

1 Anyone who promises, offers, or grants a foreign public official or an official in an international public organization an undue advantage, directly or indirectly, whether for the benefit of the official themselves or for the benefit of another person or entity, to induce the official to perform or refrain from performing an act within their duties, with the aim of obtaining or retaining a contract or any undeserved privilege related to international trade or otherwise.

Any foreign public official or employee of an international public organization who requests or accepts an undue advantage, directly or indirectly, whether for themselves or for the benefit of another person or entity, to perform or refrain from performing an act within their duties.

¹Please refer to the website: <http://e-learning.univ-tebessa.dz/moodle/course/info.php?id=3083>
Date of Access: March 20, 2024, at 13:40.

✓**Characteristics of the Offender:** This crime requires the offender to have one of the following characteristics:

✓**Foreign Official Status:** Defined by Algerian legislation as any individual holding a legislative, executive, administrative, or judicial position in a foreign country, whether specific or general. It also includes anyone performing a public function for the benefit of a foreign country, including for a public body or institution.

Characteristics of the Employee in International Public Organizations: Defined as any international employee or any person representing such an organization, acting on its behalf within the concept of international public organizations.

Material Element: The crime of bribery includes both active and passive bribery. Passive bribery is committed by a foreign public official or an employee of international public organizations. Its material elements include the request or acceptance of a bribe, which align with the material elements of the crime committed by a public official.

On the other hand, active bribery (the briber), committed by individuals and institutions in the private sector in Algeria, includes material elements such as promise, offer, or granting of a bribe. The purpose of this crime is to obtain an undeserved privilege or maintain an undeserved contract, often related to international trade or other matters.

Moral Element: In the case of passive bribery, there must be general intent, manifested by the knowledge that the actions violate legal rules punishable by law when committing these material acts, along with the

presence of specific intent based on awareness that their position is a subject of consideration for the request or acceptance for themselves or others (**whether actual or constructive**), and exploiting their position and duties.¹

The crime of embezzlement committed against public or private funds:

"Professor Dr. Ahsan Bouskiya" defined embezzlement as: "The conversion by a trustee of entrusted funds from temporary custody, in the capacity of trust, to permanent possession, as if owned.

The concept of embezzlement differs between Articles 29 and 41 of the law related to the prevention and combatting of corruption and its meaning in the crime of theft stipulated in Article 350 of the Penal Code. In theft, embezzlement involves unlawfully taking money from another's possession stealthily or by force with the intent to own it. However, in the public and private sectors, the embezzled item is already legally in the possession of the perpetrator, who then intends to dispose of it as if it were their own.

Moreover, the meaning of embezzlement in the crime stipulated in Articles 29 and 41 of the law related to the prevention and combatting of corruption differs from the meaning in the crime of breach of trust outlined in Article 376 of the Penal Code. The latter crime requires the delivery of money based on a contract among other agreements. "Honesty" and "embezzlement"

¹ Corruption Crimes," available on the website :<http://e-learning.univ-tebessa.dz/moodle/course/info.php?id=3083> Date of Access: March 04, 2024, at 13:40.

represent the only forms of the material aspect of embezzlement in the private sector, as we mentioned earlier. In contrast, embezzlement in the public sector has three other forms:

destruction, misappropriation, and detention without lawful justification.¹ Embezzlement of property in the private sector can be defined according to the text provided in the Anti-Corruption and Anti-Bribery Law as follows: Any act or behavior performed by the manager of the entity belonging to the private sector or any employee therein, with the intention of introducing any property, financial papers, or other valuable items entrusted to him by virtue of his duties from temporary possession.

The crime of embezzlement, whether in the public or private sector, is based on three pillars: the presumed pillar, the material pillar, and the moral pillar.

The presumed pillar (Characteristics of the perpetrator): The presumed pillar in the crime of embezzlement is examined from the perspective of the characteristics of the perpetrator who is entrusted with the specific funds according to Article 29 of the Anti-Corruption Law. The law stipulates that specific characteristics must be present when the act of embezzlement occurs. In the public sector, perpetrators include:

¹ Embezzlement of public and private funds is available on the website:

<https://www.startimes.com/f.aspx?t=36702498> Date of Access: March 04, 2024, at 13:40.

Anyone holding a legislative, executive, administrative, judicial, or elected position in one of the local elected councils, whether appointed or elected, permanently or temporarily, paid or unpaid, regardless of their rank or seniority. In the public sector, perpetrators also include:

Anyone else who temporarily holds a position or agency, whether paid or unpaid, and contributes in this capacity to serving a public authority, public institution, or any other institution wholly or partially owned by the state, or any other institution providing a public service.

Anyone else known to be a public employee or in his capacity according to the legislation and regulations in force.

As for the private sector, Article 41 of the Anti-Corruption Law requires that the perpetrator manages or works in the entity in any capacity. This makes the provision applicable to anyone belonging to any entity, regardless of their position or function.

The Material Element:

The material element in both embezzlement crimes in the public and private sectors shares some similarities and differences, which can be elucidated through the examination of four elements: the criminal behavior, the locus of the crime, the relationship of the perpetrator to the scene of the crime, and the occasion for committing the criminal act.¹

Criminal Behavior:

The material aspect of embezzlement in the public sector, as defined by

¹ Embezzlement of public and private funds is available on the website:

<https://www.startimes.com/f.aspx?t=36702498> Date of Access: March 04, 2024, at 13:40.

Article 29 of the law on corruption prevention and combat, encompasses four forms of criminal behavior: embezzlement, misappropriation, destruction, and unlawful detention. In contrast, the material aspect of embezzlement in the private sector is confined to embezzlement alone, as per Article 41 of the same law. Importantly, neither of these scenarios necessitates the occurrence of actual harm to the state or individuals as a result of the criminal activity.

The Third Axis: Mechanisms for Combating Corruption in Algeria

Algeria has embarked on a quest to involve civil society organizations in managing local public affairs. A keen observer of Algeria's legislative journey recognizes its unparalleled commitment to combating this scourge on both national and international fronts. Evidence of this commitment is the inclusion of Article 15 in the amended and supplemented Law on Prevention and Combating of Corruption, aligning with the provisions of Article 13 of the United Nations Convention against Corruption of 2003. In order to track the mechanisms for combating financial and administrative corruption in Algeria, we have divided this axis into two parts. The first part is dedicated to studying the "Supreme Authority for Transparency, Prevention, and Combating Corruption," considering it as an institution with a leading role in combating corruption in Algeria. Then, we delve into both the "Central Office for Combating Corruption" and the "Financial Inquiry Processing Cell" as auxiliary bodies to the former. Finally, we address the role of civil society activity as a pillar in confronting the crime of corruption.

Referring to the provisions of Article 17 of the Anti-Corruption Law, we

find that it stipulates: "A national authority shall be established responsible for the prevention and combating of corruption, with the aim of implementing the national strategy in the field of combating corruption." Additionally, Article 18 of Decree 06-413 confirms the independence of this authority.¹

The authority is considered an independent administrative body with legal personality and financial independence. The independence of this authority is essential for it to perform its duties and powers as required. Therefore, the legislator included in Article 19 of the aforementioned anti-corruption law a set of various provisions to ensure the independence of this authority, which are as follows:

- ✓Members and employees affiliated with the authority, who are qualified to access personal information or any confidential information in general, must take an oath before assuming their duties.
- ✓Providing the authority with the necessary human and material resources to perform its tasks.
- ✓Providing appropriate and high-level training for its employees.
- ✓Ensuring the security and protection of the authority's members and employees from all forms of pressure, intimidation, threats, insults, or

¹ Article 17 of Law No. 06-01, as amended and supplemented, establishes a national authority tasked with preventing and combating corruption, with the aim of implementing the national strategy in the field of combating corruption.

attacks, regardless of their nature, that they may be subjected to during or on the occasion of the exercise of their duties.¹

The National Anti-Corruption Authority in Algeria has both advisory and administrative tasks performed by the Prevention and Awareness Directorate, the Analysis and Investigation Directorate, and the Vigilance and Evaluation Council. Additionally, it has judicial functions in its relationship with the judiciary, as follows:

- ✓ Preparation of the authority's work program and the conditions for its implementation.

- ✓ Preparation of reports, opinions, and recommendations by the authority.

- ✓ Preparation of matters presented by this council to the head of the authority.

Preparation of the authority's budget.

- ✓ Preparation of the annual report addressed to the President of the Republic by the head of the authority. This report is confidential and is not published in any national newspaper.

- ✓ Referral of files containing facts that may constitute criminal offenses to the Minister of Justice.

- ✓ Preparation of the annual balance sheet of the authority.

- ✓ Proposal of a work program for preventing corruption.

- ✓ Providing guidance on corruption prevention to all public or private individuals or entities.

- ✓ Proposing measures, especially of a legislative and regulatory nature, for preventing corruption.

¹ The Institutional Response to Corruption in Algeria is Available on the Website.: <https://jilrc.com/archives/10716>_ Date of Access: March 04, 2024, at 13:40.

✓ Assisting concerned public and private sectors in developing professional codes of ethics.¹

Developing a program to raise awareness among citizens about the harmful effects of corruption.

Collecting and centralizing the use of all information that can contribute to the detection of corruption.

Researching legislation, regulations, and administrative practices to identify factors that encourage corrupt practices with the aim of eliminating them.

Periodically evaluating legal frameworks and administrative measures in the field of corruption prevention.

Firstly: Algeria ratified the United Nations Convention against Corruption, leading to the establishment of the National Authority for Corruption Prevention. However, the constitutional amendment of 2020 introduced the Supreme Authority for Transparency, Corruption Prevention, and Fight against it, replacing the original body. This was enacted through Article 204 of the Constitution and further detailed by Law 22/08 dated May 8, 2022, which outlines the organization of the authority while maintaining the National Office for the Suppression of Corruption and the Financial Information Processing Unit. We will delve into more detail regarding the Supreme Authority for Transparency and Corruption Prevention.

The Supreme Authority for Transparency, Corruption Prevention, and
✓ Combatting It is an institution established by the 2020 constitutional

¹ The Institutional Response to Corruption in Algeria is Available on the Website.: https://jilrc.com/archives/10716_ Date of Access: March 04, 2024, at 13:40.

amendment, specifically mentioned in Articles 204 and 205. This authority is tasked with the following primary responsibilities:

- ✓Developing a national strategy for transparency, corruption prevention, and combatting it, ensuring its implementation and monitoring its progress.

Collecting, processing, and disseminating all information related to its field of competence and making it accessible to the relevant authorities.

- ✓Notifying the Court of Auditors and the competent judicial authority of any observed violations and, when necessary, issuing directives to the concerned institutions and bodies.

- ✓The Supreme Authority for Transparency, Corruption Prevention, and Combatting It also focuses on:

- ✓Strengthening the capacities of civil society and other actors in the field of corruption prevention.

- ✓Following up on, implementing, and promoting a culture of transparency and anti-corruption.

- ✓Providing opinions on legal texts related to its field of competence.

- ✓Participating in the training of agents of bodies responsible for transparency, prevention, and combatting corruption.

- ✓Contributing to the ethical conduct of public life and promoting the principles of transparency, good governance, and the prevention and combatting of corruption.

✓The law determines the organization and composition of the Supreme Authority for Transparency, Prevention, and Combatting Corruption, as well as its other powers.¹

It is evident from these legal texts that the High Authority for Transparency, Prevention of Corruption, and its Combat is a preventive mechanism with a protective role before the occurrence of corruption crimes. This is achieved through various activities, including the development of a national strategy for transparency, prevention of corruption, and its combat; ensuring its implementation and follow-up; collecting, processing, and reporting information related to its area of competence and making it accessible to the relevant authorities; and contributing to strengthening the capacities of civil society.²

With the issuance of Law No. 22/08 dated May 8, 2022, and according to Article 39, articles 17 to 24 of Law No. 06/01 have been repealed. Furthermore, as per Article 42 of the same law, the Supreme Authority for Transparency, Prevention, and Combating Corruption replaces the National Anti-Corruption Authority.³

Secondly: the legal framework of the Supreme Authority for Transparency, Prevention, and Combating Corruption: The Algerian legislator defined the

¹ Constitution 2020, The Official Gazette of the Algerian Republic, Issue 82, December 20, 2020, p 43

² Hamidia Goumiri, "The Effectiveness of Anti-Corruption Mechanisms in Algeria (National Anti-Corruption Authority, Central Bureau for Combating Corruption)," *Journal of Elan for Legal and Political Studies*, Algeria, vol. 7, 2022, issue 1, p. 193.

³ Ahmed Haltay, "The Law Establishing the Supreme Authority for Transparency, Prevention, and Combating Corruption, Law No. 22/08: What Changes and What Significance?" *Journal of Legal Studies and Research*, Faculty of Law and Political Science, University of M'Sila, Issue 08, 2023, Volume 1, page 348.

Supreme Authority for Transparency, Prevention, and Combating Corruption and specified its legal nature in Article 2 of the law regulating the establishment of the Supreme Authority for Transparency, Prevention, and Combating Corruption, as well as its formation and powers.

The Supreme Authority for Transparency, Prevention, and Combating Corruption is an independent authority endowed with legal personality, financial independence, and administrative independence. As stipulated in the constitution, it is established under Article 204 in the fourth chapter of the fourth section titled "Control Institutions"¹.

When comparing the High Authority for Transparency with the National Anti-Corruption Prevention and Combating Authority, it is evident that the latter, through the constitutional amendment of 2016, was classified under the fourth chapter of the third section, titled "Consultative Institutions." It was considered an independent authority placed under the President of the Republic.

It is noteworthy that the Algerian legislator institutionalized the High Authority for Transparency, Prevention, and Combating Corruption in the 2020 Constitution as an independent entity prior to the enactment of specific legislation governing it. Importantly, it does not fall under the jurisdiction of any entity, including the President of the Republic.²

¹ Muhammad: Mechanisms for Combating Corruption Crimes in Algerian Legislation," as previously mentioned, p 55.

² Mohammed, Aliate for Combating Crimes and Corruption in Algerian Legislation," previously referenced source, p. 55.

Thirdly: The Composition of the Supreme Authority for Transparency: The Supreme Authority for Transparency is composed of the following two components Article 21 of Law 22/08 stipulates that the President of the Authority shall be appointed by the President of the Republic for a term of five years, renewable once. Among his powers are:

✓Revising the draft strategy for transparency and prevention, exercising peaceful authority over all employees.

✓Drafting the annual report of the Authority and submitting it to the President of the Republic after the Council's approval.

✓In case of receiving or obtaining information or facts that may constitute a criminal description, the President of the Authority refers it to the competent regional prosecutor or to the Council of Auditors.

✓Enhancing cooperation and exchanging information with anti-corruption bodies internationally.¹

✓The High Authority Council, as stipulated in Article 29 of Law No. 08/22 dated 05/05/2022, has defined the responsibilities of the High Authority comprised of the President and 12 appointed members according to Article 22.

Fourthly: The Duties of the High Authority for Transparency, Prevention, and Combating Corruption: The tasks of the Supreme Authority for Transparency and Corruption Prevention and Combat are diverse and can be described as primarily preventive measures rather than deterrent ones.

¹ Constitution 2020, The Official Gazette of the Algerian Republic, Issue 82, December 20, 2020, page 43

Some of these tasks are of a reporting nature, as is the case with its exclusive jurisdiction under Article 205 of the 2020 constitutional amendment to develop a national strategy related to transparency, corruption prevention and combat, and to report on public policy dedicated to transparency in public life. It also has the authority to collect, process, and report information related to transparency and corruption prevention and combat, ensuring it is accessible to relevant authorities, and to notify the Audit Board.

The powers of the Supreme Authority according to Law 08/22: In addition to the powers granted through the 2020 constitutional amendment, the Supreme Authority possesses various powers that achieve its primary purpose of ensuring the highest levels of integrity and transparency in public affairs. The Algerian legislature has outlined these powers in the second section titled "Powers of the Supreme Authority" from Articles 04 to 15 of the same law. These powers include assisting public administrations, as well as natural or legal persons, in preventing and combating corruption by evaluating legal instruments related to transparency and corruption prevention, assessing the effectiveness of administrative measures in corruption prevention, and proposing appropriate mechanisms for improvement.¹

- Ensuring, coordinating, and monitoring activities related to corruption prevention conducted based on periodic reports.
- Collaborating with international and regional organizations to exchange information for anti-

¹ Mona Manaa, Warda Ben Bouabdallah, "The Supreme Authority for Transparency, Prevention, and Anti-Corruption: Reading Law No. 22/08 Issued on 05/05/2022," *Journal of Legal and Political Thought*, Vol. 6, 2022, Issue 02, p. 863

corruption efforts. Here, the legislature refers to mechanisms and procedures for recovering assets and proceeds from corruption crimes after the Supreme Authority has carried out its tasks of assessment, information gathering, and proposing appropriate anti-corruption measures. Ultimately, this leads to the preparation of the annual report on its activities, which is submitted to the President.

- Powers of the Supreme Authority in the field of investigation and inquiry: The Supreme Authority conducts administrative and financial investigations and searches for signs of unjust enrichment of public officials, especially those unable to justify significant increases in their financial liabilities. These investigations are not limited to public officials involved in unjust enrichment but can extend to anyone associated with concealing unjustified increases in financial liabilities.¹

Involving civil society as a preventive principle is a matter of concern for the Algerian legislator to avoid corruption crimes.²

The supervisory tasks of the authority include monitoring and tracking the extent to which public administrations and local authorities comply with transparency and anti-corruption regulations. Article 09 of Law 22/08 stipulates that if the authority observes violations and non-compliance with corruption prevention measures by institutions, it issues recommendations

¹ Mona Manaa, Warda Ben Bouabdallah, "The Supreme Authority for Transparency, Prevention, and Anti-Corruption: Reading Law No. 22/08 Issued on 05/05/2022," *Journal of Legal and Political Thought*, Vol. 6, 2022, Issue 02, p.863 .

² Constitution 2020, *The Official Gazette of the Algerian Republic*, Issue 82, December 20, 2020, page 43

to take actions aimed at addressing these violations.¹

- In case of violation of integrity rules, warnings are issued, and if responses are unsatisfactory, the Authority takes action. Regarding cases of unjustified enrichment of public officials, a report is submitted to the public prosecutor at the Sidi Mohamed Court to issue precautionary measures freezing bank transactions or seizing assets for a period of three months. Upon expiration of the public notice, the public prosecutor notifies the judicial representative of the Treasury to seize the frozen or seized assets.²

Secondly: Central Office for Combating Corruption

The Central Office for Combating Corruption was established in 2010 and was assigned several tasks aimed at combating corruption in all its forms. The office was distinguished by several characteristics that embodied its legal nature as defined by Algerian legislation. These issues are detailed as follows: The Central Office for Combating Corruption was established four years after the issuance of Law No. 06-01 on the Prevention and Combating of Corruption. Its establishment was formalized by Presidential Decree No. 10-05, which outlined its structure, organization, and operational procedures. This decree was later amended and supplemented by Presidential Decree No. 11-426 and its subsequent modifications under Presidential Decree No. 14-209.³

Referring to Articles 2, 3, and 4 of the aforementioned Presidential Decree: 11-426, it becomes clear that the Directorate is an institutional mechanism established specifically for combating corruption. Consequently, this Directorate is characterized by a set of features that define its legal nature, namely.

¹ Law No. 22/08 issued on May 5, 2022.

² Law No. 22/08 issued on May 5, 2022.

³ Center for Scientific Research Generation, available at the link: <https://jilrc.com/archives/10716>

"This is confirmed by Article 02 of Presidential Decree 11-426, which states: 'The Directorate is a central operational unit of judicial police tasked with investigating and examining crimes within the framework of combating corruption.' From this, it becomes clear that the Directorate is not an administrative authority but rather an entity that exercises its powers under the supervision of the judiciary (public prosecution). Its primary mission is to investigate and inquire into corruption crimes and to refer their perpetrators to justice. Hence, the majority of its members are officers and agents in the judicial police, according to Article 06 of Decree 11-426 mentioned earlier. The Algerian legislator did well to attach this Directorate to the judiciary because it is the sole guarantor of its independence from the executive authority (though relatively so, as the Directorate, despite its attachment to the judiciary, still remains under effective control of the executive authority, especially the Minister of Justice and Keeper of the Seals, particularly regarding its tasks).

Article 03 of the same Decree stipulates that the Central Directorate for Combating Corruption is under the jurisdiction of the Minister responsible for finance, and thus it is subordinate to the executive authority. This affects its independence and hinders its tasks in combating corruption."

✓The most important task assigned to the Central Directorate for Combating Corruption is the investigation and inquiry into corruption crimes. In fact, this is what gives the Directorate a distinct character from its predecessors in anti-corruption bodies. It is not just an entity or a department but rather an apparatus for inspection, supervision, investigation, and scrutiny.

✓Collecting evidence, conducting investigations into corruption cases, and referring perpetrators to the competent judicial authority. This is the most significant differentiation between the National Authority for Prevention and Combating Corruption and the Central Directorate for Combating

Corruption. The legislator did not grant the Authority the power to initiate public prosecution, whereas the Directorate was endowed with this mechanism.

✓Enhancing cooperation with anti-corruption bodies and exchanging information during ongoing investigations, especially with the International Criminal Police Organization (INTERPOL). This is to track corruption crimes, the proceeds of which are often smuggled to other countries.

✓Proposing any measures aimed at ensuring the proper conduct of the investigations carried out by the Directorate.¹

Thirdly: The Role of Civil Society as a Tool to Combat Financial and Administrative Corruption.

So, how did the Algerian legislator establish the involvement of civil society as a preventive measure aimed at reducing and combating corruption in line with current developments?

The Algerian legislator laid the groundwork for civil society participation in combating corruption through several mechanisms:

1_ Reading the provisions of Article 15 of Law No. 06-01, as amended and supplemented.

A careful reading of Article 15, which includes phrases like "encouraging the participation of civil society," implies the contribution of these organizations in advanced stages related to promoting transparency, developing educational programs, and empowering the media and the public with information.

The constitutional review of the year 2020 praised the role of civil society in public affairs, utilizing Article 10 of this constitution, which states, "The state ensures the activation of the role of civil society in participating in the management of public affairs."² This reflects the effective and prominent role

¹ Center for Scientific Research Generation, available at the link: <https://jilrc.com/archives/10716>

² Article 10 of the Algerian Constitution for the year 2020, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 54 dated September 16, 2020

of civil society in combating and preventing corruption, which can only be achieved through its involvement in governmental bodies in decision-making processes, as well as involving citizens in the management of public affairs and sharing responsibility.

The eruption of corruption scandals in Algeria at the beginning of 2020, notably the "scandal of the century," which inflicted significant financial losses on the public treasury, necessitates the activation of various elements pertinent to the activity of civil society organizations in such circumstances. Encouraging journalists and incentivizing them to provide comprehensive coverage of corruption issues and their perpetrators, while ensuring their protection, is one of the primary objectives of exposing financial corruption.¹ The revelation of financial documents with evidence and documents is of paramount importance within the activities of these organizations. To illustrate this, Article 15 is utilized with phrases such as "**...enabling the media and the public to obtain information related to corruption...**" However, the researcher believes that this proposal leads us to recurring questions concerning the legal guarantees available for civil society organizations to carry out these tasks. We find that the activities of investigative journalism, charged with investigation and enlightening public opinion, "...are obligated to respect the private lives, honor, and dignity of individuals, as well as the requirements of national security, public order, and the neutrality of the judiciary..." Other than that, all necessary measures are taken to directly pursue these tasks, which is considered one of the foremost ways to combat corruption in Algeria.

The content of Article 15 shares to a large extent with Article 54 of the Algerian Constitution for the year 2020 in its paragraph 7, where it stated: "...freedom of the press cannot be used to undermine the dignity, freedoms,

¹ Abdelhalim Mousaoui, "Legal Mechanisms for Activating the Role of Media in Combating Corruption," paper presented at the National Symposium on Legal Mechanisms for Combating Corruption, University of Ouargla, 2008, p. 03.

and rights of others..."¹ As a result, a comprehensive legal framework emerges for dealing with corruption issues and protecting the freedoms and fundamental rights of citizens.

The use of Article 15, with its phrase "...empowering the media..." goes beyond mere interpretation. It implies granting the media the ability to publicize the trials of officials involved in corruption cases. Such an action has future implications for anyone tempted to commit similar acts. Moreover, the notion of empowering the media extends to disseminating the punishments and penalties for perpetrators of corruption crimes, serving as a deterrent for those with purely selfish motives who might contemplate such actions in the future.² The intention to reaffirm this proposition is indicated in Article 54 of the Algerian Constitution for the year 2020, which states: "Freedom of written, audiovisual, and electronic press is guaranteed..." This, in our view, permits the liberation of media outlets to confront corruption in all its forms.³

Article 15 mentioned above was used to emphasize "...adopting transparency in decision-making and enhancing citizen participation in public affairs management..." This is primarily aimed at involving and integrating civil society activities in the creation of necessary laws and regulations, considering their understanding of the reality experienced by society as a whole. On one hand, this allows for their involvement in preparing educational, awareness-raising, and sensitization programs about the dangers of corruption for the benefit of society as a whole.

The phrase "...managing public affairs..." can be taken to its fullest extent.

¹ Article 54 of the Algerian Constitution for the year 2020 can be found in the Official Gazette of the Algerian Republic, issue number 54, dated September 16, 2020.

² Article 15, paragraph 2 of Law No. 06-01, as amended and supplemented, on the prevention and combating of corruption.

³ Article 54 of the Algerian Constitution for the year 2020 can be found in the Official Gazette of the People's Democratic Republic of Algeria, Issue No. 54 dated September 16, 2020.

Undoubtedly, enhancing integrity and combating corruption requires a legal and legislative environment to strengthen accountability and punishment. Thus, the involvement of civil society becomes crucial in such circumstances, by presenting proposals for legislative projects aimed at enhancing the legal framework for combating corruption and preventing impunity.¹

On the other hand, strengthening the relationship between civil society and parliament and exchanging information between them to establish fair policies that align with the needs of society as a whole is one form of participation in public affairs. This necessitates the emergence of a role for the legislative authority in enacting legislation that ensures accountability and transparency and expands the activities of civil society organizations.

Article 15 has been used to include phrases such as "... as well as the requirements of national security, public order, and the neutrality of the judiciary," indicating the guarantee of public order and the neutrality of the judiciary. It enables the judiciary to monitor and follow up on cases of corruption presented before it by providing a legal environment and ensuring public freedoms and the fundamental rights of individuals.

The Algerian political system, composed of parties and parliamentary blocs, provides a fertile ground for civil society to play its role in combating corruption. As long as political parties exist, so does political opposition, which necessarily prevents monopolizing decision-making in public affairs and state institutions. Whenever these institutions deviate from implementing promises and political programs, critics emerge to expose them and unveil the veil of protection over public funds. We see several ways in which civil society can effectively engage in this role, summarized as follows:

¹ Kheira Saous, The Role of Civil Society in Combating Corruption, Academic Journal of Legal Research, Volume: 05, Issue: 01, Year: 2012, Pages: 2016–217

✓Constant and diligent efforts to hold high-ranking officials accountable legally and administratively for the outcomes of their actions.

✓Civil society participation in holding legislative bodies accountable through parliamentary tools.

✓Civil society initiatives, through civic organizations and media, to assist the supervising ministry in combating corruption. This can only be achieved through holding the government accountable, which we hope will be adopted in a future step.

In conclusion, it should be noted that civil society organizations in Algeria lack the resources that would facilitate their work. Furthermore, financial and administrative corruption has even affected the activities of these organizations themselves, limiting their effectiveness. Their activity is characterized by a "complete inability to confront state corruption due to their weakness, inefficiency, and the intimidation policies practiced against them.

2_The Framework of Civil Society Activity to Combat Financial and Administrative Corruption in Algeria

In order to bring more transparency to the activities of civil society, which has rightfully become one of the effective means to combat corruption in Algeria and reduce its spread, political theories assert that civil society movements are a collection of free organizations that fill the public space between safeguarding public funds and confronting corruption in all its forms. Regulating the essential roles played by these movements has become an inevitable necessity, reflecting the people's aspiration for integrity in managing financial affairs and public contracts. Therefore, in this section, we will attempt to highlight the fundamental principles upon which the comprehensive organization of civil society is based to effectively combat corruption in Algeria.

Regulation of the Activity of Civil Society Organizations to Combat Financial and Administrative Corruption: Firstly, it is worth noting that the Algerian Constitution of 2020 acknowledged the effective contribution of civil society through regulating its activity in the draft constitution presented for referendum on November 1, 2020. This inclusion of civil society participation in the preamble of the constitution was part of six articles addressing the regulation of civil society and the proposed establishment of a national observatory for civil society. We consider this a qualitative breakthrough in combating corruption crimes in Algeria.

The Algerian legislator, through Law No. 06-01 on the Prevention and Combating of Corruption, amended and supplemented, did not explicitly refer to the legal guarantees available to these organizations as they initiate their activities. It only presented Article 15, titled "Participation of Civil Society," which touches upon the legal protection of this category. Primarily, we believe that regulating the role of civil society will serve as a strong support for the role of associative movement in public affairs management and protection of public funds. This is stipulated in Article 10 of the Algerian Constitution of 2020, which states: "The state ensures the activation of the role of civil society in participating in the management of public affairs¹."

"It is noted that the law on the prevention of corruption and its fight, number 06-01, as amended and supplemented, precisely through its article 15, that the legislator has limited the scope of this organization's activity to collaborative work, which we see, in our opinion, as an infringement on its right to keep up with financial and administrative activities and to raise awareness of the danger of embezzling public funds. As a result, civil society

¹ Article 10 of the Algerian Constitution for the year 2020, Official Gazette of the Algerian Republic, Issue No. 54 dated September 16, 2020

has become unable to curb what the authorities aim for.¹ However, the Algerian legislator quickly remedied this in the current constitution of 2020, precisely through Article 09, which considered: "The people choose for themselves institutions with the following objectives: ... Ensuring transparency in the management of public affairs... Protecting the national economy from any form of manipulation, embezzlement, bribery, illicit trade or abuse, appropriation, or illegal confiscation, capital flight..²

The nature of the stage of building "**New Algeria**" requires structuring and organizing the various components of the active civil society within the framework of associations and empowering the media due to its role in rooting positive, sound practices within society, which can contribute to smooth change efforts. This can only be achieved through constitutionalizing the activity of media freedom, expanding, and fortifying its decisions, which was clearly evident through Article 54 of the Algerian Constitution of 2020.³

The Algerian Constitution of 2020 established the inclusion of citizens in accessing information and obtaining documents and data. Article 55 states: "Every citizen has the right to access information, documents, statistics, obtain them, and circulate them," which we see as reinforcing paragraph 2 of Article 15 of Law No. 06-01, which addressed "enabling the media and the public to access information."

The constitutional review of 2020 resulted in the establishment of the Supreme Authority for Transparency, Prevention, and Combating

¹ Abdelnasser Djabi, "The Relations Between the Parliament and Civil Society in Algeria: Reality and Prospects," Parliamentary Thought Magazine, Issue: 15, February 2007, Algerian Council of the Nation, p. 152.

² Article 09 of the Algerian Constitution of 2020, Official Gazette of the Algerian Republic, issue 54 dated 16 September 2020.

³ Article 54 of the Algerian Constitution of 2020 stipulates the following: "**The freedom of the press, whether print, audiovisual, or electronic, is guaranteed.**

Corruption under Articles 204–205, respectively. Article 204 refers to it as "an independent institution," while Article 205 enumerates its tasks, including "contributing to enhancing the capacities of civil society and other actors in combating corruption." This, in our view, constitutes another guarantee to support the activity of civil society and to establish principles of transparency and social justice.

Fourth: Declaration of Assets as a Mechanism to Protect Public Funds

The law No. 06/01 concerning the prevention and combating of corruption, as amended and supplemented, establishes the issue of disclosure of financial interests by public officials upon assuming office and upon the termination of their service. They are also required to report any significant increase in their financial assets during their tenure.

This declaration must include all real estate and financial assets owned by them, whether inside the country or abroad. This declaration is made before the designated authorities in the law, such as the President of the Supreme Court or the High Authority for Transparency.

If a public official fails to submit the declaration or provides a false one, the law imposes penalties on anyone who violates this obligation. It penalizes anyone found guilty of illicit enrichment or in violation of the duty to declare assets.

Studies on this law address the importance of disclosing assets to combat corruption in all its forms, identify the officials required to submit this declaration and the methods of its implementation, as well as the entities responsible for receiving these declarations. Finally, the studies discuss the accountability for violations of the asset declaration duty.

1: Individuals obligated to declare their assets.

The law on corruption prevention and combating stipulates that every person holding an executive position is obligated to declare their assets. This requirement applies regardless of whether they are appointed, elected permanently, or temporarily, and irrespective of their rank or seniority. Executive positions, in this context, encompass the President of the Republic, the Prime Minister, and ministers.

A. President of the Republic: The President of the Republic represents the head of the executive authority and is the primary responsible individual in the country. According to the provisions of the constitutional amendment, only a candidate who submits a public declaration of their real estate and movable assets inside and outside the country is eligible for election to the presidency.¹

Similarly, with regard to Organic Law No. 16/10 concerning the electoral system, it is required that candidates for the position of President of the Republic include in their candidacy file a document declaring their real estate and movable assets inside and outside the country, as stipulated in Article 139 of the law.²

B. Prime Minister and Cabinet Members In addition to the President of the Republic, who is considered the head of the executive authority, followed by the Prime Minister and ministers, whom Algerian legislation also obligates to declare their assets. However, this obligation did not arise in the constitution as it did for presidential.

¹ Paragraph 13 of the preamble to the constitutional amendment for the year 2020, Presidential Decree No. 20/442 dated December 30, 2020, Volume J.R. No. 82, dated 30/12/2020.

² Organic Law No. 16/10, dated August 25, 2016, regarding the electoral system, Official Journal No. 5, dated 2016, as amended and supplemented.

2: Persons obligated to declare their assets who hold parliamentary positions.

The law related to corruption prevention and combating mandates that anyone holding a parliamentary position must declare their assets. Individuals holding parliamentary positions refer to those occupying legislative positions, as well as elected members of local councils.

Those holding legislative positions include members of both chambers of parliament, whether it's the Council of the Nation or the People's National Assembly. This encompasses members of the Council of the Nation, whether elected or appointed by the President of the Republic.

Members of the elected popular councils include all members of municipal and provincial popular councils, known as local elected officials. These are individuals who have been elected at the local (provincial or municipal) level.

Indeed, Algerian legislators have wisely mandated the declaration of assets for this category. Many parliamentarians have abused their positions to achieve personal gains, accumulating wealth rapidly to secure their own futures and those of their children.

3: Persons obligated to declare their assets who hold judicial positions.

The Basic Law of the Judiciary requires judges to declare their assets, stating: "The judge must, by necessity, make a declaration of assets within the month following the assumption of his duties...." This requirement is also affirmed by Article 2 of the law related to corruption prevention and combating.

Here, the questioner must inquire about who the judges are. Referring to Algerian law, particularly Organic Law No. 04/11, which contains the Basic

Law of the Judiciary, we find that judges are defined in Article 2 as follows: "The judiciary includes..."¹.

✓Judges of the Public Prosecution Office of the Supreme Court, judicial councils, and courts affiliated with the regular judiciary system.

✓Judges of the judiciary and state commissioners of the Council of State and administrative courts.

✓Judges working in the central administration of the Ministry of Justice, the Secretariat of the Higher Judicial Council, and the administrative departments of the Supreme Court and the Council of State

The judiciary's attachment to the Ministry of Justice underscores the necessity for those judges to declare their assets. Such a requirement serves to alleviate any suspicion, especially considering that judicial work in many countries is susceptible to pressures and negotiations.

4: Individuals obligated to declare their assets who hold high-ranking positions and senior positions in the state.

Article 4 of the law related to corruption prevention and combating states that asset declaration includes all other employees not listed in this article, as determined by regulation.

In implementation of this article, Presidential Decree No. 06/415 was issued.² In its second article, Presidential Decree No. 06/415 specifies that asset declaration also includes public employees holding high-ranking positions or functions in the state. However, Algerian legislation did not define the meaning or concept of high-ranking positions and functions in

¹ Please review Article 24 of Organic Law No. 04/11 dated September 6, 2004, which contains the Basic Law of the Judiciary, published in Official Journal No. 57 dated September 8, 2004, as amended and supplemented.

² Presidential Decree No. 06/415, dated 22/11/2006, which specifies the procedures for declaring assets for public employees not mentioned in Article 6, Official Journal No. 74, dated 22/11/2006.

the state. Instead, it refers back to the Law on Civil Service, particularly in its third chapter titled "High-Ranking Positions and Functions in the State." In Article 10 of this law, high-ranking positions are defined as: qualitative positions aimed at structurally or functionally framing activities and ensuring the organization of administrative and technical activities in public administrative institutions.¹

Regarding high-ranking positions in the state, they refer to roles involving the direct assumption of responsibility on behalf of the state to contribute directly to the conception, preparation, and implementation of public policies.

5: Individuals obligated to declare their assets who hold specific positions as stipulated in an exclusive list.

There is another category of administrative employees covered by Presidential Decree No. 06/415, and this category also includes public servants not mentioned in Article 6 of the law on corruption prevention and combating. Article 2 of this decree stipulates that the nominal list of these individuals shall be determined by a decision from the authority responsible for public service. Such a decision was issued on April 2, 2007, by the Director General of Public Service, which specifies the list of public servants obligated to declare their assets. Referring to the annex of this decision, we find that it specifies the list of public servants working in some ministries who, by virtue of their position, may be susceptible to corruption allegations. This includes inspectors, auditors, custodians in judicial bodies,

¹ Haroun Noura, "Towards the Revision of Legal Texts Regulating Asset Declaration Procedures: Reality and Perspectives," an article published in the Journal of Legal Research Academy, issued by the University of Béjaïa, Volume 12, Issue 2, 2015, p. 364.

police officers, engineers, experts in the mining sector, as well as certain diplomatic positions within the Ministry of Foreign Affairs.¹

What is noticeable about this list is that it did not cover all ministerial departments but was limited to 14 ministries. Furthermore, not all employees of these ministries are required to declare their assets; rather, the requirement applies only to administrative staff who are entrusted with responsibilities within the ministries.

The procedures for declaration and the content of the declaration are outlined in the law on corruption prevention and combating, as well as in Presidential Decrees No. 06/414 and No. 06/415. These decrees establish a set of unified procedural rules related to asset declaration, applicable to all public employees obligated to declare. However, it should be noted that the same rules have not been followed regarding the publication of declarations.

Fifth: Unified Rules for Asset Declaration

All public employees obligated to declare their assets are subject to the same rules and provisions. This includes the assets required to be declared and the deadlines for declaration. This is as follows:²

Regarding the assets required to be declared: Article 5 of the law on corruption prevention and combating states that declaration includes an inventory of all real estate and movable properties owned by the public employee and their minor children, whether located within Algeria or abroad.

It is noticeable that the Algerian legislator has standardized the content and format of asset declaration for all categories obligated to declare. The

¹ Jazoul Saleh, "Mechanism of Asset Declaration for Prevention and Combatting Corruption," an article published in the Journal of Al-Bahith for Academic Studies, issued by the University of El-Hadj Lakhdar Batna, Volume 8, Issue 2, 2021, p. 124.

² Khaledi Fatihah, "Asset Declaration as a Legal and Preventive Measure to Combat Corruption: Between Legal Framework and Weak Effectiveness," an article published in the Tabna Journal of Academic Scientific Studies, University Center of Brikat, Volume 4, Special Issue 2, p. 926.

declaration of assets is drafted according to the model outlined in Presidential Decree No. 06/414, which specifies three types of assets that the employee must declare, namely:

Real estate properties, which include both developed and undeveloped properties. This encompasses:

- ✓ Apartments, residential buildings, or individual houses.
- ✓ Any land, whether agricultural, designated for construction, or commercial premises.

Movable assets: These include the following:

Furniture with significant monetary value.

Any artifacts, valuable items, cars, ships, or aircraft.

Any artistic, literary, or industrial property.

Any valued movable assets, whether priced or unpriced on the stock exchange.¹

Cash liquidity and investments.

Other properties: The acquirer is obliged to declare if the public employee has an interest in a financial account in a foreign country or any other authority or right to sign on that account. It is mandatory to declare it, with the necessity of keeping records related to those accounts.²

The asset declaration contains the declarant's identity, including their name, parents' names, date and place of birth, occupation, or electoral responsibility, residential address, description of real estate properties such as

¹ Othmani Fatima, "Asset Declaration as a Preventive Measure against Administrative Corruption in Public Sector Jobs," Master's thesis in Public Law, Specialization in State Transformations, Faculty of Law, University of Tizi Ouzou, 2011, p. 71.

² Fatima Othmani, the previous reference, p. 281.

location, nature, area, original ownership, and acquisition date. It also includes movable assets, their nature, ownership origin, cash liquidity amount, date of appointment, assumption of duty or renewal, or termination of duties, the type of declaration, its location, and the declarant's signature.¹

The asset declaration is provided in two copies, signed by both the declarant and the competent authority, with one copy handed over to the declarant. It is noteworthy that the Algerian legislator, through the Law on Prevention and Combating of Corruption and Presidential Decree No. 06/414, which specifies the asset declaration form, does not require the declarant to declare the assets of their spouses and adult children. The requirement is limited to the assets of the public servant concerned and their minor children. This is because the declarant could potentially transfer their assets to their spouse and adult children to avoid legal consequences in case of illicit enrichment, thereby escaping prosecution by the tax authorities.

Referring to Law 06/01, it is noted that the Algerian legislator did not address the issue of jointly owned properties with others and whether the declarant is required to declare them or not.

Regarding the timeframes for declaration, all public servants obligated to declare their assets are subject to the same declaration deadlines, regardless of their position or rank. Whether they hold a high-ranking position or are at the lowest administrative level, they must adhere to the same declaration deadlines.

According to the Algerian legislator, through the Law on Prevention and Combating of Corruption, "the public servant must submit a declaration of assets during the month following their appointment to their position or the

¹ Amal Yaich Tamam, "Asset Declaration as a Preventive Measure to Combat Administrative Corruption in Algeria," an article published in the Journal of Rights and Liberties, University of Biskra, Issue 2, March 2016, p. 507.

beginning of their electoral mandate. This declaration must be renewed immediately upon any significant increase in the public servant's financial assets, using the same procedure as the initial declaration."¹

Here it is evident from this text that the Algerian legislator has required all employees to disclose their financial interests within the month following their appointment to their position or the start of their electoral mandate, as well as upon any significant increase in their financial interests.

Therefore, the public employee is required by law to declare their assets when assuming office or at the beginning of their electoral mandate (initial declaration), upon any significant increase in their assets (renewal), and upon the termination of their administrative position or electoral mandate (final declaration). We will address these types of declarations and their deadlines as follows:

✓Initial Declaration:

This is the procedure that the employee should undertake upon assuming their position or electoral mandate, according to the second paragraph of Article 4 of the Law on Prevention and Combating of Corruption. According to this paragraph, all individuals are required to submit a declaration of their assets within the month following their appointment to office. This applies to appointees such as ministers, governors, directors, and judges, as well as to elected officials such as the President and members of elected popular councils, whether at the local level, such as municipal or provincial councils, or at the parliamentary level. However, if the individual fails to make the declaration within the one-month period, the Algerian legislator has extended the deadline to two months. This extension allows the public employee who has not declared their assets to rectify the

¹ Amal Yaïch Temam, the previous reference, p. 98.

situation, provided that their failure to declare was not deliberate, and that they intend to comply with legal procedures.¹

The notable aspect of this article is that while it provides an additional opportunity for public officials to declare their assets in case of unintentional failure to fulfill this obligation, it does not specify at which stage the public official should consider legal measures—whether initially, as a supplementary action, or as a final recourse. This suggests that legal measures can be pursued at any stage of the process.

✓**The renewal declaration:**

The third paragraph of Article 4 of the Law on Prevention and Combating Corruption stipulates that the declaration must be renewed immediately upon any significant increase in the financial assets of the public official, following the initial declaration, within one month of the increase in financial assets. This declaration is called the renewal declaration or supplementary declaration.²

From the above, it can be observed that the Algerian legislator has stipulated the renewal declaration in case of a significant increase, but it did not specify the value of this increase or what constitutes a significant increase that necessitates the renewal of the declaration. However, it is understood that a significant increase refers to the increase in the declarant's standard of living, such as owning luxurious cars, apartments, buildings, or numerous properties.

¹ Paragraph 2 of Article 4 of Law No. 06/01, concerning prevention and combating of corruption, states the following:

All individuals who are required to be appointed or elected to public positions are obligated to submit a declaration of their assets within the month following their appointment to the position, or the start of their electoral term. They must also declare the assets of their minor children. This period extends to two months in case of failure to declare, and this extension is available for those who have not declared for the purpose of rectifying the situation, provided that it is not deliberate, and legal actions must be taken.

² Amal Yaïch Temam, the previous reference, p. 98.

As for judges, according to Organic Law No. 04/11, which includes the basic law of the judiciary, the renewal declaration for them is not tied to a significant increase in financial assets. Judges are required to submit a renewal declaration every five years and upon each appointment to a qualitative position.¹

The term "qualifying position," as defined in the Judiciary's Basic Law, includes the Supreme Court, the President of the Council of State, the Attorney General of the Supreme Court, the State Counselor at the Constitutional Council, the President of a Judicial Council, the President of an Administrative Court, a Prosecutor at a Judicial Council, and the State Counselor at the Administrative Court. It also refers to appointments such as Vice President of the Supreme Court, Vice President of the Council of State, Assistant Attorney General at the Supreme Court, Deputy State Counselor at the Council of State, Chamber President in the Supreme Court, Chamber President in the Council of State, Vice President of a Judicial Council, Vice President of an Administrative Court, Chamber President in a Judicial Council, Chamber President in an Administrative Court, First Assistant to a Judicial Council, Public Prosecutor at an Administrative Court, Sentencing Judge, Court President, and Republican Prosecutor, Investigating Judge.²

¹ Judges appointed to judicial positions must submit a declaration of their assets, wealth, and any other financial matters related to their judicial profession within one month from the date of their appointment. They are also required to update this declaration when any changes occur that affect the information provided in the declaration within specified time limits."

This article aims to ensure that judges regularly submit declarations of their assets, wealth, and any changes therein, thereby enhancing transparency and contributing to the fight against corruption within the judiciary.

² "Please refer to Articles 49 and 50 consecutively of Law No. 04/11, which comprises the Basic Law of the Judiciary."

✓**The final declaration:**

occurs at the end of service or electoral mandate, where the public servant is required to submit a statement of their assets at the conclusion of their service or electoral mandate, in accordance with the fourth paragraph of Article 4 of Law No. 06/01.

And it is noted that the Algerian legislator did not specify the deadline for the final declaration, unlike what was done regarding the initial declaration and renewal. Some consider this as undermining the effectiveness and efficiency of these procedures. The greatest benefit of the declaration is realized when assuming the position, unless compared to the financial status of the declarant upon leaving the job. Furthermore, the failure to specify the necessary timeframe for the final declaration of assets leads to evasion by those concerned .

Secondly: Publishing asset declarations :

The Algerian legislator obliges certain categories to publish their declarations in the official gazette, while it is not a requirement for others. As for the category concerned with publication, according to Article 6 of the Anti-Corruption and Anti-Fraud Law, they include the President of the Republic, members of parliament, the President of the Constitutional Council and its members, the Prime Minister and its members, the President of the Court of Auditors, the Governor of the Central Bank of Algeria, ambassadors, consuls, and governors. Their declarations must be published in the official gazette of the People's Democratic Republic of Algeria within the two months following their election or assumption of their duties.¹

Thirdly: The role of electronic editors in preventing corruption in electronic transactions through Decree 15/247.

The impact of electronic portals on preventing corruption in electronic

¹ Amal Yaïch Temam, the aforementioned reference, p. 78.

transactions based on Decree 15/247. The electronic platform: According to the text of Article 203, there has been a directive to establish an electronic platform. It stipulates, "Establishing an electronic platform dedicated to government contracts, managed by the Ministry of Finance in collaboration with the Minister responsible for information technology and communications, each handling their respective responsibilities. The authorities of each ministry in this field will be determined by a joint decision between the Minister responsible for finance and the Minister responsible for information technology and communications. The content of the platform and its management methods will be determined by a decision of the Minister responsible for finance."¹

Given that the Algerian legislature did not provide a specific definition for the electronic portal, but rather focused on explaining its content and management mechanism.²

Through the directive to establish the electronic portal, a new approach has been developed in conducting transactions within the scope of government contracts.³

Decree 15/247 represents a significant shift towards eliminating the physical aspect in public procurement procedures, as outlined in Article 203. Despite the Algerian legislature's inclination towards adopting electronic portals, the

¹ Presidential Decree 15-247 regulates public procurement and authorizations of the public sector, dated September 16, 2015, Official Gazette, Issue 50, p 98.

² Fatiha Meloudi, Fatima Zazoua, "Digitization as a Mechanism for Implementing the Principle of Transparency in the Field of Public Procurement," Algerian General and Comparative Law Journal, Vol. 7, 2021, Issue 2, p 465.

³ Faiza Kheir El-Din, "Introducing Electronic Transactions as a Pillar for the Principle of Transparency in the Process of Concluding Public Contracts in Algeria," Knowledge Issues Journal, Issue 1, P 1.

guidance was limited to the exchange of essential information necessary for preparing electronic contracts.¹

Roles performed by the electronic portal within the framework of government contracts include a set of vital functions that benefit economic entities, contracting government agencies, and support the public interest requirements of member states. These functions facilitate access to and utilization of necessary information and include:

.1 Electronic publishing: Involves storing information and documents within the electronic portal digitally and making them electronically accessible to the public. This system, as stated in Article 204 of Decree 15/247, mandates electronic publishing to ensure transparency of information and ease of access.

.2 Database creation: This database allows for the collection and organization of information related to government contracts, including details of contracting parties, lists of concluded contracts, and their associated administrative documents. This database enhances efficiency and provides a centralized system for storing and retrieving relevant information easily.²

Electronic contracts and electronic identity in the field of public procurement: The Algerian legislature adopts the use of electronic contracts and electronic identity through the Public Procurement Law. Article 2 of Decree 15/247 states that public procurement contracts are considered written contracts under the applicable legislation and are concluded for consideration with economic operators according to the conditions

¹ Fatiha Meloudi, Fatima Zazoua, cited in the previous reference, p. 466.

² Fatiha Meloudi, Fatima Zazoua, "Digitization as a Mechanism for Implementing the Principle of Transparency in the Field of Public Procurement," referenced previously, pp. 468–469.

stipulated in this decree, with the aim of meeting the needs of the contracting authority in the fields of works, supplies, services, and studies.¹

The electronic identity plays a prominent role in public contracts conducted electronically, as it allows for the identification of contractors and their qualifications. According to Article 06 of Regulation 910/2014 of the European Union regarding electronic identity, trust services, and electronic transactions for public procurement, when identity is determined through electronic means or electronic authentication in accordance with national law or national administrative applications to access online services provided by a public sector entity of a member state, electronic identity becomes a primary means to achieve trust and transparency in electronic operations and public procurement.

Determining cross-border electronic identity requires a country's recognition of an identity means used in another country, provided that it complies with specific conditions. It is required that an electronic identification issued from an electronic identification scheme recognized by the committee be provided, with a level of assurance exceeding or equal to the assurance level required by a specific public sector entity to access the service online in the first member state. The public entity must rely on a basic or high assurance level to access the service online. Recognition of the electronic identity must be made within twelve months from the date of issuance of the appropriate decision by the committee. The electronic means issued through the recognized scheme by the committee and recognized by public sector entities for cross-border authentication to access the service online must be recognized by these entities before their recognition.

Digital signature is a digital tool associated with electronic documents, distinguished by a unique imprint that can be used to identify and

¹ Presidential Decree 15-247 regulates public procurement and delegations of the public sector, dated September 16, 2015, Official Gazette, Issue 50, p 7.

differentiate the signer. It is used to authenticate any process requiring user verification and is utilized in online financial, commercial, and administrative transactions. Additionally, it is employed in some electronic government services such as tax declaration signing, banking transactions, online stock trading, among others. In essence, the digital signature is considered stronger than handwritten signatures, providing data protection and preventing repudiation or forgery.

Fourthly: The legal system for evidence derived from smartphones serves as a mechanism for combating corruption.

The legal system regarding evidence derived from smartphones is considered an effective mechanism in combating corruption. Electronic evidence derived from smartphones constitutes a fundamental part of the tools provided by modern technology, which continuously evolves. Alongside the negative impact that smartphones may have, they also offer positive aspects through the digital evidence they provide.

Evidence derived from smartphones can be categorized into several categories, including:

Firstly, digital evidence resulting from internet examination: In cases where the phone is not connected to the internet, it is possible to determine the location of the user based on the phone's location or SIM card. If the phone is connected to the internet, user information can be obtained by examining the internet connection system. Consequently, criminal activity can be traced through monitoring the communication pathways used in the phone, such as messaging protocols.¹

¹ Dargham Al-Jaradat, "Criminal Evidence from Smartphones and Its Concept and Legal Basis: A Comparative Study between Jurisprudence and Law", presented at the 16th International Conference on Electronic Evidence in Civil and Criminal Matters: From Introduction to Evaluation, Faculty of Law and Political Science, Hamma Lakhdar University, December 9th, 2021, p. 16.

Secondly, the analysis of digital evidence resulting from Internet Protocol (IP) examination is considered one of the primary methods for identifying the location of a mobile phone connected to the internet. This system enables tracking of unique numbers representing the location and network used in the connection. Such analysis is a fundamental and crucial method for accurately pinpointing users' locations on digital maps, contributing to the detection of illicit activities and the fight against crime.¹

The evidence resulting from the examination of mobile phone service provider devices, also known as servers, is considered a fundamental mechanism for tracking communication with websites and pages hosted on a digital network. Telecommunication companies specialize in providing necessary services for mobile communications and play a vital role in this regard. Through examining these devices, evidence that may prove or disprove the commission of a crime using mobile phones can be discovered. The tasks of these servers include facilitating communication in discussion forums and live chats, providing a storage system for email, and connecting internet users through various communication channels. These operations are integral to efforts in combating cybercrime and ensuring digital security. Analyzing these devices contributes to the collection of data and evidence necessary for presenting before a court in cases involving crimes related to mobile phones.²

Fourthly, the evidence resulting from examining the memory of a mobile phone pertains to the storage system within the phone, which allows it to retain a complete copy of the data accessed or stored during the phone's use on the network or the internet. Memory storage is defined as a temporary location for storing data collected through the internet browser while the

¹ Dargham Al-Jaradat, same reference, p. 16.

² Dargham Al-Jaradat, same reference, p. 17.

individual is browsing web pages. This data includes elements of web pages visited by the individual using modern software.

By examining and monitoring the pages accessed by the individual, including frequently visited pages, the individual's activity can be determined and tracked even over a long period without data deletion. Thanks to this capability, the evidence resulting from examining the memory of a mobile phone can be used as an effective tool in gathering evidence in criminal investigations and combating cybercrime, as data can be retrieved and analyzed for presentation as evidence in court.¹

The legal stance in Algeria demonstrates a positive trend towards dealing with evidence derived from mobile phones. The Algerian legislature has adopted the term "interception of communications," which was included in Article 65 of the Electronic Surveillance Law issued under Law 09/04. This law aims to establish rules for prevention and combating crimes related to communication and information technology.

The article stipulates that electronic communication surveillance includes the audio interception of the content of any wired or electronic communication via the phone, using any mechanical device or other device capable of doing so. This approach represents an important step towards developing a legal framework that ensures adequate protection for citizens and effectiveness for legal authorities in investigating crimes involving the use of modern technology, such as mobile phones.

Under this legal framework, Algerian legal authorities can utilize evidence derived from mobile phones in a manner consistent with the specified laws and regulations, enhancing the effectiveness of investigations and contributing to combating organized and technological crimes.²

¹ Adel Mestari, Ahmed Hussein, "The Validity of Evidence Derived from Mobile Phones in Criminal Proof," *Al-Mufakir Journal*, Faculty of Law and Political Science, Mohamed Khider University of Biskra, 2017, Vol. 05, p. 55.

² Adel Mestari, Ahmed Hussein, same reference, p. 18.

The definition adopted by the United Nations Human Rights Council on April 17, 2013, regarding the privacy of communications includes monitoring information sent, transmitted, or generated through communication networks, as well as intercepting, collecting, storing, and retrieving this information.

Furthermore, electronic communication surveillance is defined as capturing communications remotely, targeting all forms of electronic communications, whether visual, written, or auditory, conducted through wireless communication means such as mobile phones, email, text messages, and online social networking sites like Facebook, in addition to other modern communication methods.

In summary, this definition encompasses all forms of electronic communication across networks and various media, emphasizing the importance of monitoring and protecting personal data and ensuring compliance with individual rights and privacy in an era of increasing digital technology usage.

The Role of Electronic Editing in Preventing Corruption in Electronic Transactions According to Decree 15/247:

The Electronic Portal: The idea of establishing an electronic portal, according to Article 203, is stipulated as "the creation of an electronic portal for public transactions, managed by the Ministry responsible for Finance and the Minister of Technology and Communications, each within their area of expertise. A joint decision between the Minister responsible for Finance and the Minister of Technology and Communications shall determine the powers of each ministerial department in this regard. The content of the portal and the way it is managed are to be determined by a decision from the Minister responsible for Finance."¹

¹ Presidential Decree 15-247 on the Organization of Public Procurements and Delegations of Public Service, dated September 16, 2015, Official Gazette, No. 50, p. 98

The content and management of the electronic portal are mentioned in accordance with Decree 15/247, without referring to the concept of the electronic portal itself.¹

The electronic portal was established to implement a new mode of transactions in the field of public procurement.²

Decree 15/247 emphasized the elimination of the physical aspect in the field of public procurement, in accordance with Article 203. However, although the Algerian legislator referred to the electronic portal, the text was limited to the exchange of preliminary information related to the electronic conclusion process.³

The functions of the electronic portal in the field of public procurement include enabling economic operators and contracting authorities in member states to access it to meet their needs and public interest requirements. These functions include:

A. Publishing information and documents on the electronic portal, also known as electronic publication, which means retaining digital copies of information and displaying them electronically. Article 204 of Decree 15/247 stipulates the mandatory nature of electronic publication.

B. Establishing a database that allows for the collection of information related to public procurement contracts and contracting authorities, as well as lists of concluded contracts and their administrative files.⁴

¹ Fatima Miloudi, Fatima Zazoua, "Digitization as a Mechanism for Implementing the Principle of Transparency in the Field of Public Procurement," *Algerian and Comparative Public Law Journal*, Vol. 7, 2021, Issue 2, p. 465.

² Faiza Khair El Din, "The Introduction of Electronic Transactions as a Support for the Principle of Transparency in the Process of Concluding Public Contracts in Algeria," *Knowledge Issues Journal*, p. 1.

³ Fatima Miloudi, Fatima Zazoua, Same reference, p. 466.

⁴ Fatima Miloudi, Fatima Zazoua, "Digitization as a Mechanism for Implementing the Principle of Transparency in the Field of Public Procurement," Reference previously mentioned, pp. 468-469.

Electronic Contracts and Electronic Identity in Public Procurement: The Algerian legislator adopts the use of electronic editors in public procurement in accordance with the Public Procurement Law, as stipulated in Article 2 of Decree 15/247:

Electronic Contracts: In public procurement, the contract is considered a written contract according to the applicable legislation, and it is executed against consideration with economic operators according to the conditions stipulated in the decree, aiming to meet the needs of the contracting authority in the fields of goods, supplies, services, and studies.¹

The concept of electronic contracts has brought about a radical change in the concepts and methods of managing electronic administrative contracts and public procurement, leading to a significant shift in how public services are delivered. The topic of electronic contracting has been addressed through the electronic portal associated with public procurement in Presidential Decree 10/236, which regulates public procurement. The aim is to modernize public facilities to meet modern requirements and achieve interests in effective ways.²

¹ Presidential Decree 15-247 regulates public procurement and delegations of public service, dated September 16, 2015, Official Gazette, No. 50, p. 7.

² Faiza Khair Eldin, "Introducing Electronic Transactions as a Pillar for the Principle of Transparency in the Process of Concluding Public Contracts in Algeria," Reference previously mentioned, p. 3.

Conclusion:

The Algerian Constitution of 2020 has designated the activities of anti-corruption agencies as a tool for establishing and preserving democratic values in society, combating financial and administrative corruption in Algeria by establishing clear mechanisms for transparency and effective oversight. However, this reform does not appear to be straightforward, necessitating the provision of the necessary legal environment and understanding of the controls and monitoring procedures exercised by civil society across its various spectra. Hereafter, I will proceed to present a series of findings and recommendations as follows:

Results:

- The constitutional establishment of the civil society's activity in Algeria as a tool to combat financial and administrative corruption is a measure aimed at protecting financial and administrative institutions in Algeria.
- The absence of political awareness and the desire for reform are two fundamental factors that have hindered the eradication of corruption in Algeria to this day.
- Viewing civil society activity as both preventive and remedial measures to combat financial and administrative corruption in Algeria, targeting the protection of public funds.
- The constitutional revision of 2020 has imparted a values-based dimension to the activities of civil society organizations, serving as a guarantee of their independence and enhancing their role in combating corruption and preventing it in the future.

Proposals:

- Foster professionalism and high-quality education for university students and employees across various financial and administrative sectors in Algeria. This will undoubtedly contribute to raising awareness about the dangers of corruption and its impact on the national economy.

- Enhance the constitutional revision of 2020 with organic laws and regulatory decrees to regulate the activities of civil society organizations, which still suffer from resource scarcity and lack of means, not to mention administrative and legal obstacles.
- The constitutional revision of 2020 has led to the establishment of the "Supreme Authority for Transparency, Prevention, and Combating Corruption," which became operational in mid-2022 as an effective partner in strengthening the capabilities of civil society organizations. It is recommended to extend its powers to encompass all authorities, bodies, and supervisory institutions themselves.
- Contribute to fostering public ethics and conduct transparently in the flow of information, which can play a decisive role in uncovering abuses and the misuse of power.
 - Encourage and facilitate citizen engagement with anti-corruption authorities and media outlets to report instances of corruption that come to their attention.
 - Establish and organize supervisory bodies tasked with conducting serious and effective regular monitoring, free from any flaws, of financial and administrative institutions in Algeria. We also propose regulating the oversight of supervisory bodies themselves, as they could potentially facilitate the commission of this scourge.
 - Establish specialized national centers of expertise within each judicial council to handle research, investigation, monitoring, and prosecution of crimes related to embezzlement of public funds.

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