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## NEWLY ESTABLISHED BODIES FOR THE PROTECTION OF PUBLIC FUNDS IN ALGERIA

**Belkhir Halimi\***

**Abstract.** Algeria has worked to combat corruption by establishing legal mechanisms through its ratification of international conventions and treaties related to corruption, within the framework of protecting public funds. As part of these efforts, several bodies and institutions have been created and entrusted with the task of combating corruption, namely: the High Authority for Transparency and Corruption Prevention, the Central Office for the Repression of Corruption, and the Financial Intelligence Processing Unit. Additionally, specialized judicial divisions for corruption cases have been established, along with the Economic and Financial Judicial Division to address the most complex corruption-related crimes. The measures and mechanisms introduced by the legislator to preserve public funds have contributed to the fight against corruption and its reduction. However, the effectiveness of these bodies remains dependent on the achievement of a set of standards and characteristics within their legal framework, which must translate into tangible results. This starts with strengthening the independence of these bodies and institutions to carry out their assigned duties and achieve their primary objective: the protection of public funds.

**Keywords:** Newly established bodies, public funds, corruption, protection

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\* Department of Law, Faculty of Law and Political Science, University of Kasdi Merbah, Ouargla; Algeria  
E-mail: [belkhirhalimi5@gmail.com](mailto:belkhirhalimi5@gmail.com)  
<https://orcid.org/0009-0004-5856-4375>

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## НОВЫЕ ОРГАНЫ ПО ЗАЩИТЕ ГОСУДАРСТВЕННЫХ СРЕДСТВ В АЛЖИРЕ

**Белхир Халими\***

**Абстракт.** Алжир борется с коррупцией, создавая правовые механизмы посредством ратификации международных конвенций и договоров, связанных с коррупцией, в рамках защиты государственных средств. В рамках этих усилий был создан ряд органов и учреждений, на которые возложена задача борьбы с коррупцией, а именно: Высший совет по прозрачности и предотвращению коррупции, Центральное управление по борьбе с коррупцией и Подразделение по обработке данных финансовой разведки. Кроме того, были созданы специализированные судебные палаты по делам о коррупции, а также Экономическая и финансовая судебная палата для рассмотрения наиболее сложных коррупционных преступлений. Меры и механизмы, введенные законодателем для сохранения государственных средств, способствовали борьбе с коррупцией и ее сокращению. Однако эффективность этих органов по-прежнему зависит от достижения ряда стандартов и характеристик в рамках их правовой базы, которые должны приносить ощутимые результаты. Это начинается с укрепления независимости этих органов и учреждений для выполнения возложенных на них обязанностей и достижения их главной цели: защиты государственных средств.

**Ключевые слова:** вновь созданные органы, государственные средства, коррупция, защита

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\* Юридический факультет, факультет права и политологии, Университет Касди Мерба, Уаргла; Алжир

E-mail: [belkhirhalimi5@gmail.com](mailto:belkhirhalimi5@gmail.com)

<https://orcid.org/0009-0004-5856-4375>

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## ƏLCƏZAİRDƏ İCTİMAİ FONDLARIN MÜHAFİZƏSİ ÜZRƏ QURULMUŞ YENİ TƏŞKİLATLAR

**Bəlxir Həlimi\***

**Abstrakt.** Əlcəzair dövlət vəsaitlərinin qorunması çərçivəsində korrupsiya ilə bağlı beynəlxalq konvensiyaları və müqavilələri ratifikasiya etməklə hüquqi mexanizmlər yaratmaqla korrupsiyaya qarşı mübarizə aparmışdır. Bu səylərin bir hissəsi olaraq korrupsiya ilə mübarizə aparan bir neçə orqan və qurum yaradılıb və onlara həvalə edilib, o cümlədən: Şəffaflıq və Korrupsiyaya Qarşı Mübarizə üzrə Ali Orqan, Korrupsiyaya Qarşı Mübarizə üzrə Mərkəzi İdarə və Maliyyə Kəşfiyyatının Emalı Bölməsi. Bundan əlavə, korrupsiya ilə bağlı ən mürəkkəb cinayətlərə baxılması üçün İqtisadi və Maliyyə Məhkəməsi şöbəsi ilə yanaşı, korrupsiya işləri üzrə ixtisaslaşmış məhkəmə bölmələri yaradılmışdır. Qanunverici tərəfindən dövlət vəsaitlərinin qorunması üçün tətbiq edilən tədbirlər və mexanizmlər korrupsiyaya qarşı mübarizəyə və onun azaldılmasına öz töhfəsini verib. Bununla belə, bu orqanların səmərəliliyi onların qanuni çərçivələri daxilində bir sıra standartlara və xüsusiyyətlərə nail olmaqdan asılı olaraq qalır ki, bu da nəzərəcarpacaq nəticələrə çevrilməlidir. Bu, həmin orqan və qurumların özlərinə həvalə edilmiş vəzifələri yerinə yetirmək və əsas məqsədlərinə - dövlət vəsaitlərinin qorunmasına nail olmaq üçün müstəqilliyinin gücləndirilməsindən başlayır.

**Açar sözlər:** Yeni yaradılmış orqanlar, dövlət fondları, korrupsiya, müdafiə

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\* Hüquq şöbəsi, Hüquq və Siyasi Elmlər Fakültəsi, Kasdi Merbah Universiteti, Uarqla; Əlcəzair

E-mail: [belkhirhalimi5@gmail.com](mailto:belkhirhalimi5@gmail.com)

<https://orcid.org/0009-0004-5856-4375>

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## **1.Introduction**

Corruption is considered one of the most widespread phenomena in modern societies. Given its serious impact both nationally and internationally since its effects are no longer limited to the local level but have taken on an international dimension Algeria has made efforts to confront corruption in order to protect public funds. These efforts aim to establish a legislative framework capable of addressing corruption, starting from constitutional provisions, particularly those related to enshrining constitutional guarantees for the protection of public funds. Moreover, Algeria has worked to strengthen and reinforce the role and status of constitutional institutions and other bodies tasked with combating corruption through oversight mechanisms to safeguard public funds. This has included several amendments to the functions and powers of these institutions so that they may fulfill their assigned roles, whether through the implementation of preventive measures against corruption or by means of specific investigative procedures, as well as through the establishment of bodies entrusted with protecting public funds and combating corruption-related crimes.

The traditional bodies that support the anti-corruption prevention strategy include:

a) The Court of Auditors, which serves as a supreme body for ex-post control over the finances of the state and local communities. Its jurisdiction was expanded to include economic institutions under the 2020 constitutional amendment. The Court was established in 1980 following the 1976 Constitution, and Ordinance No. 95/82 defined its duties and organizational structure. This ordinance was later amended by Ordinance No. 10/02 to enable the Court to contribute to the national anti-corruption effort through oversight, aimed at establishing sound, fair, and transparent management practices.

b) The General Inspectorate of Finance, created in 1980 under Presidential Decree No. 80/53 (amended and supplemented), is a supervisory body. Its functions were amended under Decree No. 08/272. Its primary mission is to supervise the financial and accounting management of the state, local communities, and institutions of an industrial and commercial nature.

c) Judicial police services of various types constitute one of the most effective mechanisms due to their nationwide presence. They are characterized by significant human and material resources, operational expertise, and have had their powers strengthened through the expansion of territorial jurisdiction and the adoption of effective investigative methods and operational protocols. As for the newly established bodies (modern mechanisms) in the field of corruption prevention and control, they include the Financial Intelligence Processing Unit, established by Decree No. 02/127, as well as the High

Authority for Transparency, Corruption Prevention and Control, and the Central Office for the Repression of Corruption.

The importance of this topic lies in its contemporary nature and the fact that it has not received sufficient scholarly attention, despite its significant relevance at both the national and international levels, given the rising rates and increasing complexity of corruption crimes. This reality calls for the development of academic and scientific research in this field.

Based on the above, we pose the following research question:

**To what extent have the newly established bodies created by the Algerian legislator contributed to the protection of public funds and to keeping pace with the evolution of corruption-related crimes?**

In light of this problem statement, the research is structured around two main points: first, the Financial Intelligence Processing Unit will be addressed, followed by a discussion of the bodies concerned with corruption prevention and their role in the protection of public funds.

### **First: The financial intelligence processing unit**

As part of strengthening the role of financial institutions in combating and preventing financial corruption crimes, the Algerian legislator established the Financial Intelligence Processing Unit under Executive Decree No. (02/127) dated 07/04/2002 [Executive Decree No. 02/127 dated 07/04/2002 concerning the establishment, organization, and functioning of the Financial Intelligence Processing Unit, published in the Official Gazette of the People's Democratic Republic of Algeria No. 23 of 2002, as amended and supplemented by Executive Decree No. 08/275 dated 06 September 2008, published in Gazette No. 50 of 2008, and also amended and supplemented by Executive Decree No. 13/157 dated 15 April 2013, published in Official Gazette No. 23 of 2013]. Article 7 of the United Nations Convention against Transnational Organized Crime stipulates that each State Party shall establish a Financial Intelligence Unit (FIU) to serve as a national center for the collection, analysis, and dissemination of information to prevent money laundering. In order to detect money laundering operations and to ensure transparency in financial transactions, there emerged a need for additional mechanisms to achieve this goal by calling upon states to establish specialized entities for receiving reports of any suspicion regarding operations that may involve money laundering [Malhaq Fadila, *Prevention of the Banking System from Money Laundering: A Study in Light of the Current Legislation and Legal Systems*, Houma Publishing and Distribution, Algeria, 2013, p.137].

This section will address the legal definition and characteristics of the Financial Intelligence Processing Unit, followed by an outline of its structure and assigned functions.

## **2.The legal definition of the financial Intelligence Processing Unit**

It is worth noting that the establishment of the Financial Intelligence Processing Unit in Algeria stems from United Nations Security Council Resolution No. (1373) – 2001, which mandated member states to establish units aimed at preventing and combating money laundering and terrorism financing crimes. It also follows Recommendation No. (26) of the Financial Action Task Force (FATF), which requires all countries to establish a Financial Intelligence Unit that operates as a national center for receiving, requesting, analyzing, and forwarding reports of suspicious transactions, as well as other information related to potential money laundering and terrorism financing [Hashemi Wahiba, *The Financial Intelligence Processing Unit*, Ijtihad Journal for Legal and Economic Studies, University Center of Tamanrasset, Issue 04, 2013, p.162].

The Financial Intelligence Processing Unit is a national body established by the Algerian legislator under Executive Decree No. (02-127) [Executive Decree No. 02-127 dated 07 April 2002 establishing the Financial Intelligence Processing Unit, organizing and regulating its functioning, OG No. 23 dated 07 April 2002], following Algeria’s ratification of the United Nations Convention against Transnational Organized Crime [Presidential Decree No. 02–55 dated 05 February 2002 ratifying Algeria’s accession to the United Nations Convention against Transnational Organized Crime, OG No. 09 dated 10 February 2002. Note: Algeria ratified the Convention with reservations]. Although the Algerian legislator issued this executive decree in 2002, the crimes of money laundering and terrorism financing had not yet been criminalized at that time. As a result, the decree remained ineffective for two years and had no real impact until 2004, when the members of the Financial Intelligence Processing Unit- consisting of six (06) members were officially appointed. Furthermore, the legislator criminalized acts constituting money laundering under Law No. (04–15), which amended and supplemented the Penal Code [Law No. 04–15 dated 10 November 2004 amending and supplementing the Penal Code, OG No. 71 dated 10 November 2004]. The first dedicated law addressing the crime of money laundering and terrorism financing was enacted in 2005 under Law No. (05-01) [Law No. 05–01 dated 06 February 2005 on the prevention of money laundering and terrorist financing and the fight against both, OG No. 11 of 2005].

The Algerian legislator legally defined the Financial Intelligence Processing Unit in Article (02) of Executive Decree No. (13-157), which amended and supplemented Executive Decree No. (02-127), as: “an independent administrative authority enjoying legal personality and financial autonomy” [Article 02 of Executive Decree No. 13-157 dated 15 April 2013, amending and supplementing Executive Decree No. 02-127 on the creation and operation of the Financial Intelligence Processing Unit, OG No. 23 dated 28 April 2013].

It was the first mechanism established by the Algerian legislator to address financial corruption involving money laundering and terrorism financing crimes. The Unit is vested with full powers to carry out actions, procedures, and operations at both the national and international levels to detect any form of corruption, while being fully subject to the principle of legality [Amina Tazir, *The Role of the Financial Intelligence Processing Unit in Confronting Suspicious Corruption Operations*, African Journal of Legal and Political Studies, Ahmed Draïa University of Adrar, Vol. 04, No. 01, 2020, p.114].

The Financial Intelligence Processing Unit is a central pillar in the fight against money laundering activities stemming from illegal sources and terrorism financing. It is tasked with collecting information and data on suspicious operations and cases, and it is exclusively responsible for receiving notifications of suspicion [Adel Mohamed El-Sewi, *Substantive and Procedural Rules of the Crime of Money Laundering*, 1st ed., Nahdat Misr, Egypt, 2008, p.443].

### **3.Characteristics of the financial intelligence processing unit**

Based on the definition previously provided for the Financial Intelligence Processing Unit in Article (02) of Executive Decree No. (13–157), it can be concluded that this Unit possesses a set of legal characteristics, which are as follows:

- a.** The Financial Intelligence Processing Unit is a public administrative authority:

As a public administrative authority, the Unit enjoys the privileges of public authority, which include a range of special powers and prerogatives that grant it broader freedom in exercising its competencies. As a centralized administrative authority, the legislator has granted it additional powers to monitor the movement of suspicious funds and their sources and destinations, as well as greater autonomy in managing its affairs. This strengthens the role of the Unit in combating, in particular, money laundering and terrorism financing crimes.

- b.** The Financial Intelligence Processing Unit is an independent authority:

This means that it has complete freedom to regulate activities that may lead to money laundering and terrorism financing through banks, professions, and financial businesses [Amina Tazir, previously cited, pp.114-115].

- c.** The Financial Intelligence Processing Unit is a preventive authority:

It functions as an independent preventive regulatory body, since the function of administrative policing is fundamentally preventive in nature. It takes all necessary preventive measures to maintain and protect public order by anticipating and preventing anything that might constitute money laundering or terrorism financing [Alaa Eddine Achi, *Model of Administrative Law*, Dar El Hoda, Algeria, 2012, p.190].

**d. The Financial Intelligence Processing Unit is a neutral authority:**

This means it does not exceed the legal objective of protecting society from the dangers of money laundering and terrorism financing. Therefore, it is not political in nature and does not adhere to any ideological or political philosophy that would detach it from the societal public order. Conversely, if it were to misuse its powers and prioritize the protection of public authority over the protection of societal public order, it would then become a political authority [Hashemi Wahiba, previously cited, p.167].

**e. The Financial Intelligence Processing Unit is a legal personality:**

As a result, it enjoys financial and administrative independence and the right to litigate. However, this independence is not absolute, as it remains subject to state oversight in all its activities.

**4.The legal scope of specialization of the financial intelligence processing unit**

The legal scope of specialization of the Financial Intelligence Processing Unit refers to its legal field of activity, which includes two main areas, outlined as follows:

**First: Money Laundering**

One of the primary areas of work of the Financial Intelligence Processing Unit is the detection of money laundering crimes. Money laundering is defined as “*the concealment of the criminal origin of assets and illicit funds in order to make them appear legitimate and lawful in the eyes of the public and the authorities. Technically, the process involves three stages: placement, layering, and integration*” [Ahsan Bousaqia, *Summary of Special Criminal Law – Crimes Against Persons and Property*, Vol. 1, 7<sup>th</sup> ed., Houma Publishing, Algeria, 2007, p.396].

It is also defined as “a series of continuous and deliberate operations aimed at introducing illicit funds generated from hidden and unlawful activities commonly known as the underground economy into the legitimate financial system to give them a lawful appearance” [Al-Mubarak Mukhlis Ibrahim, *Money Laundering: Criminalization and Combating*, 1st ed., Al-Nouri Foundation, Syria, 2003, p.20].

**Second: Combating Terrorism**

The crime of terrorism financing is among the most serious offenses falling within the jurisdiction of the Financial Intelligence Processing Unit. This crime is defined as “any act carried out by a person or terrorist organization, by any means direct or indirect and unlawfully and intentionally, through the provision or collection of funds with the intention of using them, wholly or partially, to commit acts defined as terrorist or sabotage crimes, as stipulated and punishable under Articles from 87 bis to 87 bis 9 of Ordinance No. (95–11), which amends and supplements Ordinance No. (66–156) constituting the



Penal Code, and Article 03 of Law No. (05–01) on the prevention and fight against money laundering and terrorism financing” [Articles from 87 bis to 87 bis 9 of Ordinance No. 66–165 containing the Algerian Penal Code, OG No. 49 of 1966, as amended and supplemented by Ordinance No. 95–11 dated 25 February 1995, and Law No. 04–15 dated 10 December 2004, OG No. 71 of 2004, and Law No. 15–19 dated 30 December 2015, OG No. 71 of 2015. See also Article 03 of Law No. 05–01, previously cited].

### **5.Composition of the financial intelligence processing unit**

The Financial Intelligence Processing Unit is composed of human resources and administrative departments, which are outlined as follows:

#### **a. a.Human Composition**

The Unit is composed, in terms of personnel, of the Chairperson of the Unit Council, the Secretary-General of the Unit, and its staff members.

#### **a1 – Chairperson of the Financial Intelligence Unit Council:**

The Financial Intelligence Processing Unit is headed by a Chairperson appointed by Presidential Decree for a four (4)-year term, renewable once (1). The Chairperson of the Council is entrusted with the following responsibilities [Article 10 bis 1 of Executive Decree No. 02–127, as amended and supplemented by Executive Decree No. 13–157, previously cited]:

- Appointment and termination of duties for all positions within the framework of applicable basic laws governing the status of the agents.
- Ensuring the operation of the departments, coordinating among them, overseeing their functioning, and ensuring the proper operation of the Unit.
- Ensuring the implementation of the decisions made by the Unit Council and overseeing the fulfillment of the Unit’s missions and objectives.
- Initiating legal proceedings and representing the Unit before national and international authorities and institutions, as well as concluding contracts and agreements.
- Assigning the preparation of budget forecasts, the administrative account, and the annual report on the Unit’s activities to be submitted to the Minister of Finance after the Council’s approval.
- Proposing the internal organization and rules of procedure of the Unit and ensuring their implementation.

It is worth noting that the Algerian legislator referred to the Unit Council in Article 10 of Executive Decree No. (02-127), as amended and supplemented by Executive Decree No. (13-157). This Council is composed of seven (7) members, namely [Article 10 of Executive Decree No. 02-127, as amended and supplemented by Executive Decree No. 13-157, previously cited]:

- The Chairperson,

- Four (4) members selected for their competence in the banking, financial, and security fields,
- Two (2) judges appointed by the Minister of Justice after consulting the High Council of the Judiciary.

These members are appointed for a term of four (4) years, renewable once. The Council makes its decisions by majority vote and deliberates in particular on the following matters:

- Developing annual and multi-year programs on the Unit’s activities.
- Deliberating on procedures for exploiting and processing suspicious transaction reports and investigation reports.
- Implementing any program aimed at encouraging and supporting the Council’s work in fields related to its mandate.
- Developing exchange and cooperation relationships with any national or foreign body or institution operating in the same field of activity as the Unit.
- Deliberating on the Unit’s draft budget.

#### **a2 – Secretary-General of the Financial Intelligence Processing Unit:**

The Unit has a General Secretariat headed by a Secretary-General appointed by decision of the Unit Chairperson. The Secretary-General exercises his functions under the authority and supervision of the Chairperson and is responsible for managing all administrative affairs and human and material resources of the Unit, in addition to providing services necessary for its proper functioning [Ammar Mostefawi, *The Role of the Financial Intelligence Processing Unit in Combating Suspicious Financial Transactions*, Al-Fikr Journal, Issue 15, 2020, p.678].

#### **b. Administrative Composition**

The Unit’s administrative departments are referred to as technical departments. They were organized under an interministerial decree dated 28 May 2007 and include the following [Article 03 of the Interministerial Decree dated 28 May 2007, OG No. 39 dated 13 June 2007]:

#### **b1 – Investigation and Inquiry Department:**

This department is responsible for collecting information and liaising with correspondents. It handles investigations and inquiries concerning any alerts received by the Unit about the origin, destination, and identity of parties involved in financial operations, and it manages the analysis of suspicious transaction reports and the conduct of investigations.

#### **b2 – Legal Data Analysis Department:**

This department processes suspicious transaction reports and other information received from qualified individuals and authorities. It is also responsible for liaising with the Public Prosecution, conducting legal analyses, and managing legal follow-ups.

**b3 – International Cooperation Department:**

This department is responsible for bilateral and multilateral relations with foreign bodies or institutions operating in the same area as the Unit. It participates in international activities and joint investigations and collects information concerning financial intelligence units around the world and legislation related to international cooperation.

**b4 – Documentation Department:**

This department collects and preserves all documents, studies, and pedagogical tools related to the Unit's area of activity. It monitors international developments in the field of combating money laundering and terrorism financing and informs the Council and relevant departments accordingly.

Each of these four (4) departments includes a team of employees in addition to study officers specialized in various fields. The Algerian legislator has ensured the integrity of the personnel working in the Financial Intelligence Processing Unit by subjecting them to Ordinance No. (06–03) on the General Statute of the Civil Service.

**6.Functions of the financial intelligence processing unit**

The Financial Intelligence Processing Unit is entrusted with a set of functions and powers as outlined in Executive Decree No. (02-127), as amended and supplemented by Executive Decree No. (13-157), concerning the prevention of money laundering and terrorism financing. These functions include:

- Receiving suspicious transaction reports related to any money laundering or terrorism financing operations submitted by individuals and entities responsible for such reporting. These entities include: banks, financial institutions, the financial services of Algeria Post, other similar financial institutions, insurance companies, exchange offices, mutual aid societies, betting and gaming companies, casinos, and any natural or legal person who, in the course of their profession, provides consultancy and/or conducts deposit operations, exchanges, placements, transfers, or any movement of capital [Article 19 of Executive Decree No. 02-127, as amended and supplemented by Executive Decree No. 13-157, previously cited].
- Upon receiving suspicious transaction reports, the Unit processes them by collecting all available information, examining and analyzing it, and determining the origin of the funds and the true nature of the suspicious operations [Article 04 of Executive Decree No. 02–127, as amended and supplemented by Executive Decree No. 13–157, previously cited].
- The Unit may take preventive precautionary measures, such as ordering temporary judicial custody of the funds, accounts, or securities that are the subject of the report, provided that the duration of the measure does not exceed 10 hours.

- The Algerian legislator granted the Unit the authority to propose legislative and regulatory texts concerning the fight against money laundering and terrorism financing.
- The Unit also has the authority to seize all illicit funds resulting from money laundering and terrorism financing crimes.
- It has supervisory and oversight authority over banks and financial institutions to ensure their compliance with anti-money laundering and terrorism financing regulations, such as recordkeeping and reporting suspicious activity.
- In carrying out its functions, the Unit may request any document or information deemed necessary from entities and individuals designated by law. It may also seek the assistance of any qualified person to support the fulfillment of its missions.
- The Financial Intelligence Processing Unit also plays a role at the international level, particularly in the exchange of information with foreign counterpart bodies [Ben Aissa Ben Aliya, *Efforts and Mechanisms to Combat the Phenomenon of Money Laundering in Algeria*, Master’s Thesis in Law, University of Algiers 1, 2010, p.83].

## **Second: Bodies concerned with corruption prevention and their role in protecting public funds**

The existence of a specialized body or bodies to combat corruption is one of the mechanisms and measures introduced by the United Nations Convention against Corruption (UNCAC) of 2003. The Algerian legislator followed this approach when enacting the Law on the Prevention and Fight against Corruption in 2006. Law No. (06/01) dated 20 February includes a specific section- Chapter Three devoted to legal provisions aimed at reinforcing efforts to prevent and combat corruption, and to strengthening the mechanisms designed to protect public funds. It provides for the creation of a national body tasked with the prevention and fight against corruption, which was later replaced in 2022 by the *High Authority for Transparency, Corruption Prevention and Fight*, alongside the *Central Office for the Repression of Corruption*.

### **1.The high authority for transparency, corruption prevention and fight**

In this section, we will address the legal basis for the establishment of the High Authority for Transparency, Corruption Prevention and Fight, followed by its organizational structure and areas of jurisdiction.

#### **a. Legal Basis of the High Authority for Transparency, Corruption Prevention and Fight**

To begin, it is worth noting that prior to the enactment of Law No. (06–01) dated 20 February 2006 on the prevention and fight against corruption, the

Algerian legislator had already established a national body in 1996 under Presidential Decree No. (96/233) dated 02 July 1996. This body was tasked with the prevention and fight against bribery and was named the *National Observatory for Corruption Monitoring and Prevention* [Presidential Decree No. 96/233 dated 02 July 1996 establishing the National Observatory for Corruption Monitoring and Prevention, published in OG No. 41 of 1996]. This body was operational with appointed members until the year 2000, when it was dissolved and abolished.

The legal foundation upon which Algeria built its corruption prevention and anti-corruption mechanisms including, most recently, the *High Authority for Transparency, Corruption Prevention and Fight*, created under Articles (204) and (205) of the 2020 constitutional amendment has an international and regional dimension before being adapted into domestic legislation. This foundation is the *United Nations Convention against Corruption*, adopted by the UN General Assembly on 31 October 2003 [United Nations Convention against Corruption adopted by the UN General Assembly on 31 October 2003], which Algeria ratified with reservation on 19 April 2004 [Presidential Decree No. 04/128 dated 19 April 2004 ratifying with reservation the United Nations Convention against Corruption, adopted by the UN General Assembly in New York on 31 October 2003, OG No. 26 dated 25 April 2004].

There is also a legal basis for the High Authority found in the *African Union Convention on Preventing and Combating Corruption*, adopted in Maputo on 11 July 2003, and ratified by Algeria on 10 April 2006 [Presidential Decree No. 06/137 dated 10 April 2006 ratifying the African Union Convention on Preventing and Combating Corruption, adopted on 11 July 2003, OG No. 24 dated 16 April 2006].

The Algerian legislator dedicated Chapter Three of Law No. (06–01), comprising eight (8) articles (Articles 17 to 24), to this body, defining its legal status, structure, organization, and operational procedures. Additionally, Presidential Decree No. (06/413) dated 22 November 2006 specified the composition, organization, and operation of the *National Body for the Prevention and Fight Against Corruption*, which was amended and supplemented by Presidential Decree No. (12/64) dated February 2012 [Presidential Decree No. 06/413 dated 22 November 2006 specifying the composition, organization, and operation of the National Body for the Prevention and Fight Against Corruption, published in OG No. 74 of 2006].

In line with the new powers granted to it by the constitutional legislator under Article (205) of the 2020 constitutional amendment including the authority to refer matters to the Court of Auditors and the competent judicial authority whenever violations are observed, and to issue directives when necessary to designated institutions and agencies the legislator referred to the law for the

definition of its organization, composition, and other prerogatives. Accordingly, Law No. (22/08) dated 05 May 2022 was enacted to define the organization, composition, and powers of the *High Authority for Transparency, Corruption Prevention and Fight* [Law No. 22/08 dated 5 May 2022 defining the organization, composition, and powers of the High Authority for Transparency, Corruption Prevention, and Fight Against Corruption, published in OG No. 32 dated 14 May 2022].

**b. Organizational Structure of the High Authority for Transparency, Corruption Prevention and Fight**

The legislator did not specify the structures with which the High Authority is equipped in Law No. (22/08), as Article (18) of this law referred the matter of defining them to regulatory provisions. Until the issuance of the implementing regulations defining the structures of the High Authority for Transparency, Corruption Prevention and Fight, the structures outlined in Article (6) of Presidential Decree No. (06/413) dated 22 November 2006, as amended by Presidential Decree No. (12/64) dated 7 February 2012, remain in effect [Presidential Decree No. 12/64 dated 7 February 2012 amending and supplementing Presidential Decree No. 06/413 dated 22 November 2006 on the National Body for Corruption Prevention and Fight, published in OG No. 08 dated 15 February 2012].

**b1.Department in Charge of Documentation, Analysis, and Awareness-Raising**

Article (12) of the aforementioned presidential decree defines its tasks as follows:

- Conducting all economic or social studies, investigations, and analyses.
- Studying aspects that encourage the practice of corruption and proposing recommendations to eliminate them.
- Studying international standards and criteria used in analysis and communication related to the prevention and fight against corruption, with the aim of adopting, adapting, and disseminating them.
- Promoting and generalizing the integration of ethics and transparency rules at the level of public and private institutions, in consultation with the relevant entities.

**b2.Department in Charge of Asset Declarations**

Defined in Article (13) of the same presidential decree, its tasks include:

- Receiving asset declarations from public officials, as stipulated in paragraph 2 of Article (6) of Law No. (06/01) on the prevention and fight against corruption.
- Processing, classifying, and preserving asset declarations, and using declarations that indicate a change in financial status.

- Collecting and utilizing information that may lead to legal proceedings and ensuring they are properly handled in accordance with applicable legislative and regulatory provisions.
- Proposing the conditions, procedures, and methods for collecting and transferring asset declarations, in accordance with current laws and regulations and in consultation with the relevant institutions and administrations.

### **b3.Department in Charge of Coordination and International Cooperation**

This department was created following the amendment of Presidential Decree No. (06/413) in 2012 by Presidential Decree No. (12/64) dated 7 February 2012, and its tasks are defined in Article (13 bis) [Article 13 bis of Presidential Decree No. 12/64, previously cited]:

- Identifying, proposing, and implementing the procedures and methods related to relationships to be established with public institutions and other national entities, in accordance with Article (21) of Law No. (06/01) on the prevention and fight against corruption, which grants the Authority the power to request any documents or information useful for detecting acts of corruption from public or private institutions and from any other natural or legal person.
- Implementing procedures and methods for cooperation with institutions, civil society organizations, and national and international bodies specialized in the prevention and fight against corruption, with the aim of ensuring regular and beneficial information exchange and developing national expertise in this field.
- Initiating specialized training programs and sessions to be carried out with the assistance of national or international institutions, organizations, or bodies specialized in the prevention and fight against corruption.

#### **c. Powers of the High Authority for Transparency, Corruption Prevention and Fight**

The High Authority for Transparency, Corruption Prevention and Fight is granted broad powers, which are detailed as follows:

##### **c1. Powers of the High Authority under the Constitution (Latest Amendment of 2020)**

The Constitution outlines the powers of the High Authority for Transparency, Corruption Prevention and Fight in Article (205), which states [Presidential Decree No. 20/442 dated 30 September 2020 on the promulgation of the constitutional amendment approved in the referendum of 1 November 2020, published in OG No. 82 dated 30 December 2020]: *"The High Authority*

*for Transparency, Corruption Prevention and Fight shall be entrusted, in particular, with the following tasks:*

- *Developing a national strategy for transparency and corruption prevention, ensuring its implementation and follow-up.*
- *Collecting, processing, and disseminating information related to its area of jurisdiction and making it available to the competent authorities.*
- *Reporting to the Court of Auditors and the competent judicial authority whenever violations are observed and issuing directives when necessary to the concerned institutions and bodies.*
- *Contributing to strengthening the capacities of civil society and other actors in the field of anti-corruption.*
- *Promoting, implementing, and disseminating a culture of transparency, prevention, and fight against corruption.*
- *Providing opinions on legal texts related to its field of competence."*

c2. Powers of the High Authority under Law No. 22/08

Article (4) of Law No. (22/08) outlines a set of powers assigned to the High Authority for Transparency, Corruption Prevention and Fight, including the use and dissemination of any information or recommendations that may assist public administrations or any natural or legal person in preventing and detecting acts of corruption.

Among the Authority's missions is also the periodic evaluation of legal instruments related to transparency and the prevention and fight against corruption, as well as the assessment of administrative measures and their effectiveness. The Authority is also tasked with proposing appropriate mechanisms to improve them. It receives asset declarations, ensures their processing and monitoring, and sets up an interactive network to involve civil society and unify and promote its activities in the field of transparency and anti-corruption.

The Authority also works to strengthen transparency and integrity rules in the organization of charitable, religious, cultural, and sports activities. One of its most important responsibilities is to promote cooperation with regional and international bodies and organizations specialized in the prevention and fight against corruption. It must also prepare an annual report on its activities, which is submitted to the President of the Republic and shared with the public.

According to Article (5) of Law No. (22/08), the Authority is empowered to conduct administrative and financial investigations into indications of illicit enrichment of public officials who are unable to justify a significant increase in their financial assets. In such cases, neither banking secrecy nor professional



secrecy may be invoked against the Authority [Article 5 of Law No. 22/08, previously cited].

One of the Authority's most significant operational powers is found in Article (9) of Law No. (22/08), which allows it to issue recommendations when it observes violations affecting the quality and effectiveness of procedures applied within public bodies, administrations, associations, and institutions regarding corruption prevention and detection. These entities must take corrective measures within a specified timeframe and report back on the implementation of these recommendations. Article (10) of the same law provides further clarification on the measures described in Article (9), particularly in relation to asset declarations and breaches of integrity rules [Articles 9 and 10 of the same law mentioned above].

## **2.The central office for the repression of corruption**

In this section, we will examine the legal nature of the Central Office for the Repression of Corruption, followed by its composition and functions.

### **a. Legal Nature of the Central Office for the Repression of Corruption**

The Central Office for the Repression of Corruption was established in implementation of Presidential Instruction No. (03) concerning the strengthening of anti-corruption efforts, dated 13 December 2009. This instruction emphasized the need to reinforce and support anti-corruption mechanisms, both institutionally and operationally. One of the key institutional directives was the necessity of reinforcing the State's efforts by establishing a Central Office for the Repression of Corruption as an operational tool within which efforts are coordinated to confront and legally deter corrupt practices.

This was confirmed by the issuance of Ordinance No. (10/05) dated 26 August 2010, which supplements Law No. (06/01) on the prevention and fight against corruption, dated 20 February 2006. This ordinance introduced Chapter Three, which officially established the Central Office for the Repression of Corruption. However, the ordinance referred the details regarding the composition, organization, and operation of the Office to regulatory provisions, which were later provided by Presidential Decree No. (11/426) dated 8 December 2011. This decree defined the Office's composition, organization, and functioning, and was amended and supplemented by Presidential Decree No. (14/09) dated 23 July 2014 [Presidential Decree No. 11/426 dated 13 Muharram 1435 corresponding to 8 December 2011, OG No. 68 dated 14 December 2011, specifying the composition, organization, and functioning of the Central Office for the Repression of Corruption, amended and supplemented by Presidential Decree No. 14/209 dated 25 Ramadan 1435 corresponding to 23 July 2014, OG No. 46 dated 31 July 2014].

Referring to Article (24 bis) of Ordinance No. (10/05) [Article 24 bis of Ordinance No. 10/05 dated 26 August 2010 supplementing Law No. 06/01 on

the prevention and fight against corruption dated 20 February 2006], which supplements Law No. (06/01) mentioned above, it stipulates: "A Central Office for the Repression of Corruption shall be established, tasked with investigating and inquiring into corruption offenses." The legal nature of the Office was then clarified through the issuance of Presidential Decree No. (11/426), which defines the composition, organization, and functioning of the Central Office for the Repression of Corruption, and was amended and supplemented by Presidential Decree No. (14/209). According to Article (02) of Presidential Decree No. (11/426), it states: "*The Office is a central operational department of the judicial police, tasked with investigating and identifying offenses in the context of combating corruption*" [Article 02 of Presidential Decree No. 11/426, previously cited].

Returning to Presidential Decree No. (11/426), which outlines the structure and operation of the Central Office for the Repression of Corruption, as amended, it clearly defines the legal nature of the Office. Article (02) confirms that "The Office is an operational body of the judicial police tasked with the investigation and detection of offenses within the framework of corruption prevention."

It is worth noting that the legislator has limited the role of the Office to investigation and inquiry into corruption. Furthermore, Article (03) of the decree, as amended in 2014, states that "The Office shall be placed under the authority of the Minister of Justice, Keeper of the Seals," whereas it was previously under the supervision of the Minister in charge of Finance, while enjoying administrative independence in its operation [Othmani Fatima, *Mechanisms for Combating Administrative Corruption Between Theory and Practice*, Doctoral Dissertation in Legal Sciences, Mouloud Mammeri University of Tizi-Ouzou, Faculty of Law and Political Science, 2022, p.354].

**b. Composition of the Central Office for the Repression of Corruption**

Article (06) of Presidential Decree No. (11/426) dated 08 December 2011, which defines the composition, organization, and functioning of the Central Office for the Repression of Corruption, provides for the following:

- Judicial police officers and agents under the Ministry of National Defense [In this regard, the interministerial decree dated 10 April 2012 was issued to determine the number of judicial police officers and agents from the Ministry of National Defense assigned to the Central Office for the Repression of Corruption. It was repealed by the interministerial decree dated 25 November 2019, which replaced it and was published in OG No. 04 of January 2020. Article 2 of the new decree set the number of judicial police officers at 8 and agents at 17].
- Judicial police officers and agents under the Ministry of the Interior and Local Authorities

- Public agents with expertise in the field of anti-corruption
- Additionally, the Office includes personnel for technical and administrative support

As for the organization of the Office, it is structured as follows:

**b1. Director General:**

Appointed by Presidential Decree upon the proposal of the Minister of Justice, and dismissed in the same manner. The Director General is entrusted with the following tasks:

- Developing and implementing the Office's action plan
- Preparing the draft internal organization and rules of procedure of the Office, ensuring its proper functioning, and coordinating the activities of its departments
- Developing cooperation and information exchange at the national and international levels
- Exercising hierarchical authority over all personnel of the Office
- Preparing the annual report on the Office's activities to be submitted to the Minister of Justice, Keeper of the Seals

**The Office:**

In addition to the Director General, the Central Office for the Repression of Corruption includes a Cabinet as per Article (11) of Presidential Decree No. (11-426) [Articles 11 and 15 of Presidential Decree No. 11/426, previously cited], chaired by a Chief of Staff assisted by five (05) Directors of Studies. According to Article (15) of the same decree, the Chief of Staff, under the authority of the Director General, is responsible for coordinating and monitoring the work of the various departments of the Office.

**b2. Directorate of Investigations:**

According to Article (16) of Presidential Decree No. (11/426), this Directorate is responsible for research and investigations in the field of corruption prevention. It may be divided into sub-directorates as stipulated in Article (11) of the same decree by joint order of the Minister of Justice and the authority in charge of the civil service [Article 16 of the same presidential decree, same source].

In this regard, the Interministerial Order dated 13 November 2012, which organizes the directorates of the Central Office for the Repression of Corruption, was issued [Interministerial Decree dated 13 November 2012 organizing the departments of the Central Office for the Repression of Corruption, published in OG No. 69 of 2012]. Article (03) of this order provides that the Directorate of Investigations is composed of three (03) sub-directorates:

- Sub-directorate for Studies, Research, and Analysis

- Sub-directorate for Judicial Investigations
- Sub-directorate for Cooperation and Coordination

### **b3. Directorate of General Administration:**

According to Article (17) of Presidential Decree No. (11/426), this Directorate is responsible for managing the Office’s personnel, financial, and material resources. It may also be divided into sub-directorates as provided in Article (11) of the same decree by joint order of the Minister of Justice and the authority responsible for the civil service.

The Interministerial Order dated 13 November 2012, which organizes the directorates of the Central Office for the Repression of Corruption, stipulates in Article (04) that the Directorate of General Administration is composed of two sub-directorates: the Sub-directorate for Human Resources and the Sub-directorate for Budgeting, Accounting, and Logistics [Article 4 of the Interministerial Decree dated 13 November 2012, previously cited].

#### **c. Functions of the Central Office for the Repression of Corruption**

The legislator has endowed the Office with multiple responsibilities and powers, which are outlined as follows:

- The legislator granted the Central Office for the Repression of Corruption several powers and tasks of a repressive nature, which are entrusted to the judicial police officers and agents affiliated with the Office. To ensure the effectiveness of its personnel in fulfilling their duties in the fight against corruption, the legislator reinforced the criminal procedures for prosecution by introducing two amendments: [Othmani Fatima, previously cited, p.360]
  - Extension of the territorial jurisdiction of judicial police officers affiliated with the Office to cover the entire national territory.
  - Referral of corruption cases to courts with extended jurisdiction.
- Collecting all information that would allow for the detection and combatting of acts of corruption, starting with the collection of evidence and conducting investigations into corruption incidents, and referring the perpetrators to the competent judicial authorities.
- The Office also works to develop cooperation and mutual support with anti-corruption bodies and to exchange information relevant to ongoing investigations.
- The Office proposes any measures that may contribute to ensuring the proper conduct of the investigations it oversees to the competent authorities [Othmani Fatima, same reference, p.361].

What is notable about these powers is their diversity and multiplicity, combining prevention, repression, and, at times, advisory functions. These powers are distributed across the various structures of the Office, with each department carrying out its assigned mission. For example, the Directorate of

Investigations is tasked with research and investigations in the field of corruption, while the Director General of the Office is responsible for developing cooperation and information exchange at both the national and international levels [Article 216 of Presidential Decree No. 11/426, previously cited].

## **7. Conclusion**

Through our study, we aimed to shed light on the modern financial oversight mechanisms established to protect public funds in Algeria and to assess their effectiveness in combating this phenomenon on the ground, particularly regarding violations in the management of public funds at various levels. The Algerian legislator has demonstrated a strong will and determination to fight all corruption-related crimes, especially those related to money laundering and terrorism financing, through the establishment of the *Financial Intelligence Processing Unit* as an innovative mechanism to combat corruption crimes, in addition to other bodies such as the *High Authority for Transparency, Corruption Prevention and Fight* and the *Central Office for the Repression of Corruption*.

However, despite the achievements of these bodies in the field of financial oversight and anti-corruption efforts, the expectations placed upon them to reduce the prevalence of this phenomenon were far greater. Their impact has remained modest in this regard, due primarily to the legal nature of their missions, which are not based on deterrence. These bodies function mainly as support mechanisms for the Public Prosecution and are focused on financial oversight.

Based on our analysis, we have reached the following conclusions:

- Corruption remains the most significant challenge facing the financial oversight bodies created by the state to combat it, due to its damaging effects on the national economy and the daily lives of citizens.
- The Financial Intelligence Processing Unit is considered one of the newly established financial oversight bodies in the field of corruption prevention and control, with its core mission focused on combating money laundering and terrorism financing.
- Traditional financial oversight bodies, such as the Financial Inspectorate, the General Inspectorate of Finance, and the Court of Auditors, possess broad powers and functions in fighting corruption, especially in terms of investigation, expenditure monitoring, and financial management within public institutions and government administrations.
- In practice, Algeria's financial oversight bodies remain far from achieving the level of control required to effectively reduce corruption. Numerous

violations persist across central and local public administrations and the banking sector, resulting in significant waste of public funds.

Accordingly, the following recommendations are proposed:

- We propose the digitalization of the asset declaration process to enhance transparency and enable oversight bodies to effectively perform their role in protecting public funds.
- Involve media institutions in protecting public funds by supporting anti-corruption policies through increased citizen awareness and encouragement to report corruption.
- Grant the High Authority for Transparency, Corruption Prevention and Fight the power to impose administrative sanctions independently, without central authority supervision, by allowing it to issue orders to relevant institutions and agencies.
- Expand the scope and reach of newly established mechanisms to an international level, and develop awareness programs aimed at protecting public funds and combating corruption.
- Establish clear standards and define jurisdictions between specialized judicial poles and the economic and financial judicial pole regarding corruption crimes.
- Support the independence of institutions dedicated to corruption prevention and clarify their roles by publishing their annual reports to make their activities accessible to the general public.
- Strengthen cooperation between anti-corruption bodies both nationally and internationally, and promote opportunities for collaboration and coordination to keep up with the evolving nature of corruption crimes.

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