

Combating Corruption in Algerian Public Procurement under Law No. 06-01: Integrating Preventive and Enforcement Mechanisms

HADJ DJABALLAH Amel¹

¹Lecturer, Class A, University of Tipaza, Algeria, Email: hadjdjaballah.amel@cu-tipaza.dz
<https://orcid.org/0009-0007-7783-7967>

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Abstract

Public procurement is particularly vulnerable to corruption because of its close connection with public expenditure, public investment, and the management of public funds. This study examines the legal mechanisms established under Algerian legislation to prevent and combat corruption in public procurement, with particular emphasis on Law No. 06-01 on the Prevention and Combating of Corruption, complemented by Law No. 23-12 governing public procurement. The study adopts primarily an analytical legal approach, supported by descriptive and comparative methods, to assess the complementarity between preventive measures and enforcement mechanisms and their consistency with relevant international standards, particularly the United Nations Convention against Corruption. The findings show that the Algerian legal framework combines preventive safeguards, including transparency, equal treatment of economic operators, conflict-of-interest rules, integrity requirements, access to information, and review procedures, with criminal sanctions, administrative oversight, and specialised anti-corruption institutions. Although this framework provides a substantial legal basis for protecting public funds and promoting integrity in public procurement, its practical effectiveness remains dependent on consistent enforcement, effective institutional coordination, continuous professional training, and further digitalisation of procurement procedures. The study concludes that strengthening preventive governance alongside effective enforcement is essential to enhancing transparency, accountability, and the sustainable protection of public funds in Algeria.

Keywords: Public Procurement; Corruption Prevention; Anti-Corruption Law; Transparency; Public Funds; Good Governance; Algeria.

Introduction

Corruption in public administration is one of the most serious challenges facing modern states, given its direct impact on the sound management of public funds, the rationalization of public expenditure and the achievement of economic and social development, as well as its negative repercussions on citizens' trust in public institutions. Consequently, the combat against corruption has received increasing attention at both the international and regional levels, with the conclusion of several international conventions enshrining the principles of preventing and criminalizing corruption and strengthening international cooperation in combating it. We can cite: The United Nations Convention against Corruption, adopted in New York on 31 October 2003, and signed in Mérida (Mexico) from 9 to 11 December 2003, which Algeria ratified with

a reservation¹ pursuant to Presidential Decree No. 04-128 of 19 April 2004. As well as the African Union Convention on Preventing and Combating Corruption, signed in Maputo on 11 July 2003, and ratified by Presidential Decree No. 06-137 of 10 April 2006.

In line with its international obligations, Algeria adopted Law No. 06-01 of 20 February 2006 on the prevention and combating of corruption, as amended and supplemented, which established a comprehensive legal and institutional framework for combating corruption, based on a combination of preventive measures and deterrent mechanisms. This framework has also been reinforced by a series of specific provisions contained in the legal texts governing public procurement², notably Presidential Decree No. 15-247 of 16 September 2015 on the Regulation of Public Procurement and Public Service Delegations, which devotes a separate section to measures aimed at preventing corruption in this area.

The importance of this framework is heightened by the specific nature of public procurement as the primary means of implementing public expenditure and realizing development projects. Thus, it is one of the areas most vulnerable to corrupt practices, particularly given the expansion of public investment programs witnessed in Algeria since the beginning of the third millennium, and the accompanying rise in the number of corruption cases linked to the conclusion and implementation of public procurement contracts. This has prompted the Algerian legislature to develop the legal framework governing this sector; however, the multicity of legal texts and the overlap between preventive measures and punitive mechanisms raise questions about their integration and effectiveness in curbing this phenomenon.

Numerous studies have addressed either corruption offences or the public procurement system in isolation, though studies that comprehensively address the integration of preventive measures and deterrent mechanisms in the fight against corruption in public procurement, whilst assessing their coherence and practical effectiveness, remain limited. This highlights the need to examine this subject from a perspective that combines a legal analysis of the texts with an assessment of the functional integration between the various established mechanisms.

This study aims to:

- analyse the legal framework governing the combat against corruption in public procurement under Algerian legislation,
- highlight the areas of integration between preventive measures and deterrent mechanisms,

¹Algeria deposited two (2) reservations to the Convention with the Secretariat-General of the United Nations. The first reservation states that the Convention shall in no way be construed as constituting recognition of the Zionist entity 'Israel', nor shall it oblige Algeria to have dealings with it. The second reservation concerns Article 66 of the Convention, which provides for recourse by two States, in the event of a dispute as to the manner of applying the Convention's provisions, to the International Court of Justice at The Hague; that is to say, Algeria is not bound to have recourse to that Court.

²Tracing the development of the regulation of public procurement in Algeria from independence to the present day, it may be observed that provisions relating to combating corruption were first introduced through Presidential Decree No. 10-236 of 7 October 2010, in Articles 60 and 61 thereof, relating primarily to the code of ethics applicable to public procurement. The amendment introduced in 2012, however, added two new articles — 61 bis and 61 bis 1 — relating primarily to cases of incompatibility and conflict of interest in the conclusion of public contracts, following scandals brought before the Algerian courts, such as those concerning the Sonatrach company and the motorway contracts. With the issuance of Presidential Decree No. 15-247 of 15 September 2015 containing the Public Procurement and Public Service Delegation Code, the chapter relating to combating corruption came to comprise six (6) articles.

- assess their adequacy in protecting public funds and ensuring the integrity of the procedures for the conclusion and implementation of public procurement contracts,
- and to propose ways of enhancing their effectiveness.

On this basis, the central research question of the study is as follows:

To what extent do the preventive measures and deterrent mechanisms adopted by the Algerian legislature to combat corruption in public procurement complement one another, and to what extent are they effective in ensuring the effective protection of public funds?

In order to address the research problem and achieve its objectives, this study has relied: primarily, on an analytical approach; analysing the legal texts governing the prevention and combating of corruption, in particular the provisions of Law No. 06-01 on the Prevention and Combating of Corruption and its amending texts³, secondly, a descriptive approach to present the conceptual and institutional frameworks for combating corruption in the field of public procurement, and a comparative approach where necessary to highlight the extent to which Algerian legislation is consistent with the obligations set out in relevant international conventions, foremost among which is the United Nations Convention against Corruption. The study also drew on an analyses of legal precedents and certain practical applications, with the aim of assessing the degree of integration between preventive measures and deterrent mechanisms, and drawing conclusions that contribute to enhancing the effectiveness of the legal system for the protection of public funds and ensuring the integrity of public procurement.

1. Preventive Measures to combat Corruption Offences under Algerian Law

The Algerian legislature adopted the same approach as the United Nations Convention in drafting the Anti-Corruption Law and its various implementing provisions, striking a balance between preventive and deterrent measures in its approach to tackling the phenomenon, whilst prioritizing prevention. This is evident in the dedication of chapter II, “Preventive Measures in the Public Sector”, which comprises 12 articles covering all preventive measures; these can be summarized under the following headings:

1.1 Preventive Measures relating to Guaranteeing the Integrity of Public Officials in Public Procurement

According to Article 8 of the United Nations Convention against Corruption, and in order to prevent corruption, each State shall promote integrity, honesty and sense of responsibility amongst its public officials and elected representatives, in particular by establishing codes of conduct and rules of behavior that defines the framework ensuring the proper, honest and appropriate performance of public functions and elected offices.

Accordingly, Algeria repealed the provisions of this article in Law No. 06-01 of 20 February 2006 on the Prevention and Combating of Corruption through Article 7 thereof, which provides: “in order to support the combat against corruption, the State, elected council, local authorities, public institutions and bodies, as well as public institutions engaged in economic activities, shall endeavor to promote integrity, honesty and a sense of responsibility amongst their staff and elected representatives, in particular by establishing codes of conduct and rules of behavior that

³Law No. 06-01 of 21 Muharram 1427, corresponding to 20 February 2006, on the Prevention and Combating of Corruption, as amended and supplemented (Official Gazette, No. 20, issued on 24 February 2006).

define the framework ensuring the proper, honest and appropriate performance of public functions and the fulfilment of electoral mandates”.

As regards public procurement, Algeria, for the first time in the 2010 Public Procurement Regulations⁴ through Article 60 thereof, included provisions relating to the establishment of a code of conduct and ethics for staff involved in the stages of concluding, implementing and monitoring public procurement contract. The same concept in the Public Regulations for the year 2015 under Article 88⁵, whereby the Public Procurement Regulatory Authority and Public Services Delegations were tasked with this responsibility, however, this body has not yet been established and the code has not yet been issued.

It may accordingly be observed that:

Emphasis should be placed on the human element in public procurement through the establishment of preventive and deterrent measures to ensure the integrity of officials involved in preparing, awarding, executing, and monitoring contracts. This requires attention to recruitment and promotion mechanisms based on competence and expertise rather than nepotism or regional favoritism⁶.

1.2 Preventive Measures relating to Conflict of Interest

A conflict of interest is a situation in which an official finds themselves faced with two conflicting or divergent interests, the public interest versus their private interest, and must choose between them⁷. In this context, Article 7(4) of the United Nations Convention against Corruption stipulates: “... each State shall, in accordance with the fundamental principles of its domestic law, endeavor to adopt, establish and strengthen systems that promote transparency and prevent conflicts of interest”.

However, it should be noted that the fact that a public official is in a situation of conflict of interest does not necessary lead to corruption; rather, its legal regulation serves merely as a preventive measure as such situations may allow the official either to grant unjustified favours, to derive benefits in a legal capacity, or to abuse their influence. Consequently, officials are legally required to declare to the relevant authorities any private relationships or activities that may overlap with their official duties and which could subsequently lead to a conflict of interest. The Algerian legislature has addressed conflicts of interest in several places within of Law No. 06-01 on Combating Corruption. Article 8 thereof provides: “ A public official is obliged to inform the authority to which he or she is answerable of his or her private interests conflict with the public interest, or if such a conflict is likely to affect the proper performance of his or her duties”

⁴Presidential Decree No. 10-236 of 28 Shawwal 1431, corresponding to 7 October 2010, containing the Regulation of Public Procurement (Official Gazette No. 58, issued on 7 October 2010).

⁵Presidential Decree No. 15-247 of 2 Dhu al-Hijjah 1436, corresponding to 16 September 2015, containing the Regulation of Public Procurement and Public Service Delegations (Official Gazette No. 50, issued on 20 September 2015).

⁶ Elmahdi KHALDI ,Transparency in Algerian Public Procurement: Legal, Judicial, and Technological Approaches to Combating Corruption , journal of comparative legal studies, university o Hassiba Ben Bouali, Algeria, Volume 12-Issue 01, June 2026, 416.

⁷ Anne Peters & Lukas Handschin (eds.), *Conflict of Interest in Global, Public and Corporate Governance*, Cambridge University Press, Cambridge, 2012, p. 6.

This is confirmed by Order No. 07-01 concerning conflicts of interest and obligations relating to certain posts⁸, which sets out a list of prohibited acts that public officials are absolutely or temporarily barred from committing, the violation of which is punishable by criminal penalties, such as prohibiting holders of senior positions and executives in public institutions and administrations from having, during their term of office, any interests in entities with which they have concluded a transaction or issued an opinion with a view to concluding a transaction; nor may they, upon the end of their term of their office, for any reason whatsoever, and for a period of two years (2) engage in any advisory or professional activity of any kind, or have any direct or indirect interest in organisations with which they have concluded a contract or issued an opinion with a view to concluding a contract⁹.

As for the Public Procurement Law, provisions relating to conflicts¹⁰ have been incorporated via Law No.23-12, which sets out the general rules governing public procurement¹¹, through a dedicated chapter, chapter IV “ Integrity Rules” which stipulates a series of a strict legal provisions that can be summarised as follows¹²:

- In the event of a conflict of interest involving a public official participating in the preparation, conclusion or supervision of a public procurement contract, that official must inform the competent authority and recuse themselves from the task.
- Membership of the arbitration committee and/or membership as rapporteur on the public procurement committee is incompatible with memberships of the committee responsible for opening tenders and evaluating bids where the same tender dossier is concerned.
- Public contracts may not be awarded to former employees for the contracting authority for a period of five (5) years, except in the cases provided for in the applicable legislation and regulations.
- An economic operator participating in a public procurement contract must not be in a situation of conflict of interest relating to the contract in question, should such a situation arise, the contracting authority must be informed.

However, it should be noted that, for genuine and effective prevention, clear implementing legal provisions must be issued, setting out specific mechanisms supported by training programs to alert staff to situations where conflicts of interest may arise. It is also important to emphasise the need to declare any conflict and to recuse oneself from the task in which such a situation arises, so that there is greater oversight of decisions where there is a suspected conflict of interest.

1.3 Preventive Measures relating to Public Procurement Procedures

In accordance with Article 9 of the United Nations Convention against corruption: ” Each State shall, in accordance with the fundamental principles of its legal system, take the necessary steps

⁸ Order No. 07-01 of 11 Safar 1428, corresponding to 1 March 2007, on cases of incompatibility and the special obligations attaching to certain positions (Official Gazette No. 16, issued on 7 March 2007).

⁹ Articles 2 and 3 of Order No. 07-01.

¹⁰ Provisions relating to conflict of interest were introduced beginning with the amendment made to the public procurement legislation in 2012 through Presidential Decree No. 12-23 of 18 January 2012, and were subsequently confirmed through Articles 90, 91, 92 and 93 of Presidential Decree No. 15-247 of 15 September 2015.

¹¹ Law No. 23-12 of 18 Muharram 1445, corresponding to 5 August 2023, laying down the general rules relating to public procurement (Official Gazette No. 51, issued on 6 August 2023).

¹² Articles 67 to 70 of Law No. 23-12 laying down the general rules relating to public procurement

to establish systems for public procurement based on transparency, competition and objective decision-making criteria, and characterized, amongst other things, by their effectiveness in preventing individuals from resorting to corruption...”

Accordingly, Algeria has incorporated these provisions into its domestic law through Article 9 of Law No. 06-01 of 20 February 2006 on Combating Corruption in Algeria, which provides:” the procedures in force in the field of public procurement must be based on the principles of transparency, integrity and fair competition, and on objective criteria... these principles must particularly ensure:

- The public disclosure of information relating to public procurement procedures;
- The prior establishment of conditions of participation and selection;
- The inclusion of a declaration of integrity when concluding public contracts;
- The exercise of all avenues of appeal in the event of non-compliance with the rules governing public procurement.

Consequently, with reference to Article 5 of Law 23-12, which sets out the general rules governing public procurement: “ to ensure the efficiency of public procurement and the proper use of public funds, the award of public contracts shall be subject to the following principles: free access to public tenders, equal treatment of candidates and transparency of procedures”

As for section 1 of chapter III, it deals in details with the procedures for the conclusion of public procurements, which, as a general rule, are carried out through a call for tenders¹³. compliance with these procedures ensures a high degree of transparency in the process, leaving no room for officials to engage in manipulation and thereby creating conditions that protect officials from suspicion. However, the public Procurement Law also provides for the negotiated procedure, which is characterized by a lower degree of transparency, as an exceptional solution in very specific cases set out in Article 49 thereof¹⁴

1.4 Preventive Measures relating to Ensuring Transparency in Dealings with the Public

In order to ensure transparency in the conduct of public affairs, Article 11 of Algeria’s Anti-Corruption Law stipulates that public institutions, administrations and bodies must adopt procedures and rules enabling the public to access information concerning their organization and functioning, their decision-making processes, the simplification of administrative procedures, respond to citizens’ petitions and complaints, provide reasons for their decisions when these are not in the citizens’ favour; and clarify the applicable appeal procedures¹⁵

These provisions take on particular significance in the field of public procurement, given that the stage of selecting a contractor is one of the stages of public expenditure most prone to favouritism, discrimination and abuse of influence; Presidential Decree No. 15-247 therefore sought to translate the general principle of transparency into concrete procedural safeguards,

¹³ A call for tenders is a procedure aimed at obtaining bids from several tenderers on a competitive basis, with the contract awarded, without negotiation, to the tenderer submitting the best bid. A call for tenders may be national and/or international, and may take one of the following forms: open call for tenders, open call for tenders subject to minimum capacity requirements, restricted call for tenders, or competition.

¹⁴ Direct negotiation (gré à gré) is a procedure whereby a contract is awarded to a single contracting party without formal recourse to competition; it is an exceptional procedure applicable only in special cases, and may take the form of simple direct negotiation or direct negotiation following consultation, such consultation being conducted by any appropriate written means.

¹⁵ This provision was enacted in application of Article 10 of the United Nations Convention against Corruption.

the most notable of which is the public nature of the envelope-opening sessions provided for in Article 70:” envelopes relating to the application dossier and the technical and financial tenders shall be opened in public session, during the same session on the date and at the time of the opening of the envelopes... the contracting authorities shall invite all candidates or contractors to attend the envelope from Article 48 thereof.

Consequently, “Clarifying procedures for the sessions of the bid-opening evaluation committees, including the process for summoning members and determining the quorum required for decision-making”¹⁶.

The principle of transparency is only fully effective through the establishment of effective means of appeal and review, which the Algerian legislature has enriched in Article 56 of Law 23-12 as a right of every contractor who does not accept the results of the process, where it provides: “ in addition to the rights of judicial appeal provided for in the applicable legislation, a contractor who objects to the provisional award of a contract, its cancellation, a declaration of futility or the annulment of the procedure, within the framework of a call for tenders or a negotiated procedure following consultation, may lodge an appeal with the competent procurement committee”.

It may be said that the aforementioned legal provisions, on the whole, are consistent with international standards for combating corruption in the field of public procurement, however, the effectiveness of this system remains dependent on its proper implication in practice, the promotion of digitalization, ensuring the comprehensive electronic publication of data relating to public procurement, and the activation of oversight and appeal mechanisms in a manner that strikes a balance between the protection of public funds and the safeguarding of the rights of economic operators¹⁷

2. Deterrent and Institutional Mechanisms for Combating Corruption

Alongside the preventive approach adopted by Law No. 06-01 on combating and preventing corruption, this law also enshrines a series of deterrent measures, notably the imposition of harsher penalties for acts classified as corruption offences, as well as the establishment of an institutional framework for combating corruption.

2.1. Corruption Offences under Law No. 06-01 on the Prevention and Combating of Corruption

As previously mentioned, Algerian law does not contain an explicit definition of corruption but rather defines it through its various manifestations, which the legislator has set out exhaustively in 23 offences, set out in Articles 25 to 47 of Law No. 06-01 of 20 February 2006 on Combating Corruption; however, we focus here on offences that may be directly related to public procurement.

- **Bribery in public procurement:** Offences under Law No.06-01 February 2006 on the combat against corruption in Algeria, bribery of public officials, in general, under Article 25 thereof, however, bribery in public procurement is covered by a separate article, Article 27, as it carries a more severe bribery penalty, as a person convicted of

¹⁶Elmahdi KHALDI, *opcit*, p417.

¹⁷ OECD, *Preventing Corruption in Public Procurement*, OECD Publishing, Paris, 2016, pp. 17–39.

the offence of bribery in public procurement is liable to imprisonment for a term of ten (10) to twenty (20) years and a fine of between 1000000DZD and 2000000DZD.

Bribery, on the part of the contracting party, is defined, as various acts and manoeuvres aimed at promising a public official the granting or allocation, directly or indirectly, either to himself or to another entity, of a reward or privilege of any nature whatsoever in connection with the preparation, amendment, conclusion, supervision, negotiation or implementation of a public contract. It is also defined, on the part of the official representing the contracting authority, as various acts and manoeuvres aimed at requiring or accepting, directly or indirectly, a payment or benefit of any kind, for themselves or for another person, in connection with the preparation of or negotiations for the conclusion or execution of a public contract, an amendment or addendum¹⁸.

This situation also permits other remedial measures to be taken, in particular the termination or cancellation of the public contract or the relevant addendum, and the inclusion of the organization concerned on the list of economic operators barred from participating in public contracts.

- **Unjustified preferential in public procurement:** Article 26, as amended¹⁹ of Law No. 06-01 of 20 February 2006 on the fight against corruption, provides that the following shall be punishable by imprisonment for a term of two (2) to ten (10) years and a fine of between 200000DZD and 1000000DZD:
 - Any public official who, intentionally, grants an unjustified advantage to a third party when concluding or endorsing a contract agreement, transaction or addendum, in breach of the legislative and regulatory provisions relating to freedom of candidacy, equality between candidates and the transparency of procedures.
 - Any trader, manufacturer, craftsman or contractor in the private sector, or, more generally, any natural or legal person who, even on an occasional basis, enters into a contract or transaction with the State, local authorities, public institutions or bodies governed by public economic institutions, or local authorities, public institutions or bodies governed by public law, public institutions, or public institutions of an industrial or commercial nature, and who takes advantage of the authority or influence of officials of the aforementioned bodies in order to increase the prices they normally charge or to alter, to their own advantage, the quality of materials or services, or the delivery or supply deadlines.

¹⁸ The mere promise of an advantage, or the stipulation of one, constitutes bribery; bribery is, however, not limited to the payment of a sum of money in exchange for the award of a contract or addendum, but may take various forms, including indirect forms, such as entering into a commercial transaction with the official — for instance, purchasing the operator's vehicle at a reduced price, or, conversely, the operator purchasing the official's vehicle at an inflated price — or undertaking to settle debts owed by the official to third parties. Indeed, even where the consideration takes the form of a sexual relationship, or the stipulation thereof, this is regarded in law as constituting bribery.

¹⁹ As amended by Law No. 11-15 of 2 Ramadan 1432, corresponding to 2 August 2011, amending and supplementing Law No. 06-01 of 21 Muharram 1427, corresponding to 20 February 2006, on the Prevention and Combating of Corruption (Official Gazette No. 44, issued on 10 August 2011).

- **Illegal acceptance of benefits:** Pursuant to Article 35 of Law No.06-01 of 20 February 2006 on the combat against corruption, any public official who takes or receives, either directly or indirectly, benefits in excess of 200000DZD shall be liable to imprisonment for a term between two (2) and ten (10) years' imprisonment and a fine of between 200000DZD and 1000000DZD shall be imposed on any public official who takes or receives, either directly, through a fictitious contract, or through another person, benefits from contracts, tenders, bids, works or establishments of which, at the time the offence is committed, he is the director or supervisor, either wholly or in part, as well as any person entrusted with issuing a payment authorization in a particular transaction or with settling a particular matter, who derives any benefit therefrom.
- **Giving and receiving gifts²⁰:** this offence is controversial, as gifts are generally regarded as a positive social custom that strengthens social ties, however, a gift that is prohibited by law is one given to an employee on a particular occasion (whether family-related, professional or otherwise) by a party with an interest in the administration, such as a contractor, for example, without there being a direct conflict of interest at the of the gift's presentation. This is because the relationship between the contractor and the civil servant within the administration, during the period of the contract's execution, may strengthen and become more than a purely professional relationship. What makes the gift prohibited in this instance is that it is likely to influence the conduct of legal proceedings in the future, for example, on the basis of a gift presented six months earlier at the funeral of one of the employee's parents, out of embarrassment towards the giver, the employee might grant them some favour or turn a blind eye to irregularities during the works. In all cases, both the giver and the recipient of the gift are subject to criminal penalties of imprisonment for a term of between six (6) months and two (2) years and a fine of between 50000DZD and 200000DZD.
- **Failure to declare a conflict of interest:** The public official is obliged, on pain of criminal prosecution, to submit a written declaration of a conflict of interest, which must be countersigned by their line manager upon receipt. In the event of any future investigation, the public official is obliged to produce this declaration, otherwise, even in the absence of clear evidence of corruption against the employee, they shall be punished by imprisonment for a term of six (6) months to two (2) years and a fine of between 50000DZD and 200000DZD.
- **Breach of conflict of interest provisions:** Any executive who, during their term of office or within the two (2) years following their resignation or retirement, have an interest in institutions or bodies with which they have concluded a transaction or issued an opinion with a view to concluding a transaction.
However, once the two-year (2) period following their resignation or retirement has elapsed, they may be liable to a criminal penalty in the form of a fine ranging 200000DZD to 500000DZD, should they fail to submit a written declaration for three (3) consecutive years, where they have an interest in institutions or bodies with which

²⁰ This offence is difficult to establish, since the prosecution is required to prove the connection between the gift and the advantage conferred.

they have concluded a transaction or issued an opinion with a view to concluding a transaction, this declaration must be made by the person concerned to the National Authority for the Prevention and Combating of Corruption, and, depending on the circumstances, to their most recent employer or the authority responsible for the public office within one month of the date on which they commence the activity²¹.

- **Illicit enrichment:** Although this offence is controversial given that the presumption of innocence, in this case, rests with the accused, as, according to human rights principles, the accused is presumed innocent until proven guilty, in the case of the offence of illicit enrichment, the accused is presumed guilty and must prove their innocence. This is one of the most contentious offences discussed during the preparatory meeting for the United Nations Convention against Corruption, and many European countries have expressed reservations about it on the grounds that it conflicts with their domestic laws²².

The offence of illicit enrichment is defined as a significant increase in wealth without any legal or logical justification. Legal justification is provided by documents proving the source of sums in question, such as inheritance documents, sports betting documents or similar. Whilst a logical justification is the explanation provided by the accused, which is subjected to the judge's satisfaction.

As for the penalty prescribed by law for this offence, it is set out in Article 37 of the Anti-Corruption Law, namely imprisonment for a term of two (2) to ten (10) years and a fine of between 200000DZ and 1000000DZD.

- **Failure to report offences:** this is punishable by imprisonment for a term of six (6) months to five (5) years and a fine of between 50000DZD and 500000DZD, any person who, by virtue of their profession or permanent (eg an employee of the contracting authority) or temporary (eg members of the tender opening and evaluation committee) position, becomes aware of manipulation in the conclusion, execution or supervision of a contract and fails to report it to the competent public authorities in a timely manner. However, to ensure the optimal application of this article, it is necessary to establish secure and confidential reporting mechanisms for procurement-related violations to ensure effective protection for whistle-blowers²³.
- **The appeal:** As previously explained, an appeal is a right available to a contractor who objects to the provisional award of a contract, its cancellation, a declaration of futility or the cancellation of the procedure, however, in certain cases, to avoid any perception of harm to honest officials and to protect them, the Anti-Corruption Law provides for a prison sentence of between six (6) months and five (5) years imprisonment and a fine of between 50000DZD and 500000DZD, any person who deliberately reports, by any

²¹ Articles 6 and 7 of Order No. 07-01 of 14 March 2007 on conflict of interest and the special obligations attaching to certain functions and positions.

²² Oliver Landwehr (ed.), *The United Nations Convention against Corruption: A Commentary*, Oxford University Press, Oxford, 2019, p. 209

²³ Adel Benaissa, Corruption in Public Procurement: Between the Debate over Legal Texts and Judicial Proceedings, *Revista Processus de Estudos de Gestão, Jurídicos e Financeiros*, Ano 17, Vol. XVII, n.52, jan.-jun., 2026, p 8.

means whatsoever, to the competent authorities the existence of a corruption offence, such as manipulation in the conclusion of a transaction, the granting of unjustified privileges, bribery, the offering of gift, or similar acts of corruption, solely with the intention of harming the public official, and without any evidence.

2.2 Specialised Anti-Corruption Bodies Established by Law No. 06-01

In addition to the traditional bodies responsible for combating corruption, such as the police, the national gendarmerie, the court of auditors and other judicial and administrative bodies operating in this field, Law No 06-01 established new specialised bodies whose main task is to prevent and combat corruption. These bodies includes the High authority for Transparency, Prevention and Combating Corruption²⁴ as well as The Central Anti- Corruption Office (C.A.C.O).

2.2.1 The High Authority for Transparency, Prevention and Combating Corruption

The High Authority for Transparency, Prevention and Combating Corruption in Algeria is an independent constitutional oversight body, established under Articles 204 and 205 of the 2020 constitutional amendment, to replace the National Authority for the Prevention and Combating of Corruption, as part of the State's strategy aimed at strengthening good governance, enshrining the principles of transparency, and promoting ethical conduct in public life. This authority enjoys legal personality and administrative independence, which grants it the necessary immunity to carry out its duties free from the pressure of administrative or political conflicts, under the auspices of the President of the State.

The high authority consists of a council comprising national distinguished by their integrity and expertise in the legal, financial and administrative fields, to ensure pluralism and institutional integrity. Pursuant to Article 16 of Law No.22-08, which sets out the organization, composition and powers of The High Authority for Transparency, Prevention and Combating Corruption²⁵, the authority shall be composed of:

- **Chair of the Supreme Authority:** Appointed by presidential decree by the President of the State for a term of five (5) years, renewable once.
- **Council of the Supreme Authority:** The council comprises twelve (12) members appointed for a non-renewable term of five (5) years, representing the judiciary (the Supreme Court and the Council of State), civil society, and experienced national figures, as well as representatives of the financial oversight and control authorities.

The powers of the Supreme Authority range from preventive and advisory functions to oversight (deterrent) functions, and can be summarized under the following key areas²⁶:

²⁴ This body was designated under Law No. 06-01 as the National Authority for the Prevention and Combating of Corruption (ONPLC), before being renamed The High Authority for Transparency, Prevention and Combating Corruption following the 2020 constitutional amendment.

²⁵ Law No. 22-08 of 4 Shawwal 1443, corresponding to 5 May 2022, determining the organisation, composition and powers of The High Authority for Transparency, Prevention and Combating Corruption (Official Gazette No. 32, issued on 14 May 2022).

²⁶ Ben Cheikh, Ahmed (2024), "Constitutional and Legal Mechanisms for Combating Corruption in Algeria: An Analytical Study under Law No. 22-08," Journal of Legal and Political Studies, University of Algiers 1, Volume 9, Issue 2, p149.

- **Preventive and advisory functions:** Developing a national strategy for transparency and the prevention and combating of corruption, in coordination with the relevant sectors, and monitoring its implementation and evaluating its effectiveness. It is also responsible for issuing opinions on draft and regulatory texts relating to the prevention and combating of corruption.
- **Oversight and administrative investigation:** Receiving, examining and verifying declarations of assets made by public officials subject to the legal obligation to do so. It has the authority to conduct administrative investigations into instances of illicit enrichment among public officials who are unable to justify a significant increase in their financial assets.
- **Notification and reporting:** where there is strong evidence of acts of corruption or illicit enrichment, the Supreme Authority notifies the competent regional public prosecutor to initiate public proceedings, thereby acting as a key legal link between the administrative and judicial systems.

It is worth noting that the Supreme Authority has become a dynamic tool for preventing and combating corruption by issuing warnings and notices; and even referring cases which it deems to be of a criminal nature directly to the public prosecution service without going through the Minister of Justice, as was previously the case²⁷. This is a true embodiment of its status as one of the oversight institutions provided for in Chapter IV, 'Oversight Bodies', of the 2020 constitution²⁸.

Accordingly, in order to ensure the effectiveness of the High Authority for Transparency, Prevention and Combating Corruption in carrying out its duties, it is recommended²⁹:

- Reinforcing the principle of the separation of powers to safeguard the independence of anti-corruption institutions and prevent any undue influence or interference in the exercise of their functions.
- Preventing politicians or holders of political office from serving within anti-corruption agencies or institutions in order to preserve their independence, impartiality, and integrity.

2.2.2 The Central Anti- Corruption Office (C.A.C.O)

The Central Anti- Corruption Office is an operational unit of the judicial police (outil opérationnel) in the field of anti-corruption³⁰, established under Article 24 bis of Law No. 06-01, as amended in 2010. Its operations are governed by Presidential Decree No. 11-426 of 8 December 2011, which defines the composition, organization and operating procedures of the

²⁷ Article 22 of Law No. 06-01: "Where the Authority establishes facts of a criminal nature, it shall transmit the file to the Minister of Justice, Keeper of the Seals, who shall notify the competent Public Prosecutor so that criminal proceedings may be initiated where appropriate."

²⁸ Heltali Ahmed, "The Law Establishing The High Authority for Transparency, Prevention and Combating Corruption: What Change and What Purpose," Journal of Legal Studies and Research, Volume 2, Issue 1, 2023, p. 358.

²⁹ Amel Abbas, Constitutional and Legal Approaches for Combating Corruption in Algeria , afak for sciences journal, Volume: 09/ N°: 03 (2024), p 40.

³⁰ Article 2 of Presidential Decree No. 11-426 of 8 December 2011: "The Office is a central operational service of the judicial police responsible for investigating and detecting offences within the framework of combating corruption."

Central Anti- Corruption Office, as amended and supplemented³¹. It was placed under the authority of the Minister of Finance and began operating, in practice, in March 2013, however, given the nature of the Office's work, it was placed, by Presidential Decree No. 14-209 of 23 July 2014, under the authority of the Minister of Justice, Keeper of the Seals, and is headed by a judge.

As for the personnel of the Central Anti- Corruption Office, it comprises:

- Officers and agents of the judicial police attached to the Ministry of National Defence (officers of the National Gendarmerie and officers of the military security services).
- Officers and agents of the judicial police attached to the Ministry of the Interior and Local Authorities.
- Civil servants with proven expertise in the field of anti-corruption.
- Technical and administrative support staff.
- The Office may call upon any expert, consultancy firm and/or organization with proven expertise in the field of anti-corruption.

The Office is responsible for investigations into offences classified as corruption. The Office conducts investigations into matters relating to corruption, foremost among which are offences of corruption in public procurement, including the gathering of information, the collection of evidence, and coordination with other relevant institutions; in order to gather information relevant to their duties.

The office is in charge of the following missions³²

- Collecting, centralizing and exploiting any information that may allow to detect and fight corruption.
- Reach evidence and proceed to investigation on suspected cases of corruption and related crimes under the prosecution's supervision.
- Develop cooperation and support with anti-corruption bodies and exchange information on the occasion of ongoing investigations;
- Propose any measure that would preserve the proper conduct of investigations by the competent authorities.

Officers and agents of the judicial police attached to the Office shall make use of all the means provided for in the legislation in force; the Office is entitled, where necessary, to call upon the assistance of judicial police officers or agents attached to the other judicial services. Consequently, judicial police officers and agents attached to the Office and to other judicial services, when participating in the same investigation, must cooperate continuously in the interests of justice and share the common resources placed at their disposal.

The Office may also, after first informing the competent public prosecutor, recommend that the judicial authority take any precautionary administrative measure where a public official is

³¹ Presidential Decree No. 11-427 of 13 Muharram 1433, corresponding to 8 December 2011, determining the composition, organisation and operating procedures of the Central Anti- Corruption Office (Official Gazette No. 68, issued on 14 December 2011).

³² Official website the Central Anti- Corruption Office, [Presentation | ocrc.gov.dz](https://www.ocrc.gov.dz), accessed 19 July 2026.

suspected of acts of corruption, such as the termination of their duties, their suspension or their transfer to another post³³.

Conclusion

This study has conducted that the Algerian legislature has adopted a comprehensive legislative approach to combatting corruption in the field of public procurement, based on a combination of **preventive measures and deterrent mechanisms**, through Law No.06-01 of 20 February 2006 on the prevention and combating of corruption, supported by the provisions of Law No.23-12 setting out the general rules relating to public procurement. The study has shown that this legal framework reflects a clear legislative shift towards moving away from the retrospective criminal prosecution of corruption towards the adoption of a proactive policy based on prevention and the promotion of the principles of transparency, integrity and accountability in the management of public funds.

In addressing the study's main research question, namely: **"To what extent do the preventive measures and deterrent mechanisms adopted by the Algerian legislature to combat corruption in public procurement complement one another, and to what extent are they effective in ensuring the effective protection of public funds?"** the study concluding that the Algerian legislature has largely succeeded in establishing a comprehensive legal framework that combines prevention and enforcement, as Law No.06-01 is based, in its general philosophy, on the provisions of the United Nations Convention against Corruption, whether in terms of enshrining the fundamental principles of good governance, adopting preventive measures, or criminalizing various forms of corruption associated with public office. This has brought Algerian legislation into line with the international standards adopted in this field.

The study also showed that the integration of anti-corruption mechanisms is reflected in the link between rules on transparency, disclosure and competition in public procurement, on the one hand, and oversight mechanisms and criminal and administrative sanctions, on the other. Preventive measures aim to eliminate the sources of corruption by ensuring equality among economic operators, providing access to information, and limiting the unchecked discretionary power of officials, whilst deterrent mechanisms intervene to punish acts that constitute a breach of the principles of integrity and the protection of public funds.

However, the study revealed that the effectiveness of this system continues to face certain practical difficulties, for the quality of legal texts, however well-developed and consistent with international conventions they may be, is not in itself sufficient to achieve effective protection of public funds unless accompanied by strict and effective enforcement. In this context, the assessment of the implementation of the United Nations Convention against Corruption under the Implementation Review Mechanism highlighted certain shortcomings regarding the incorporation of the provisions on public procurement set in Article 9 of the Convention, which prompted the Algerian legislature to strengthen the legal framework for public procurement by including a specific section on anti-corruption within previous regulations, notably Presidential Decree No.15-247 governing public procurement and public service delegations, and

³³ Article 22 of Presidential Decree No. 11-426: "The Office may, after having first informed the competent public prosecutor, recommend that the hierarchical authority take any protective administrative measure where a public agent is suspected of involvement in facts relating to corruption."

subsequently reinforcing this approach through Law No.23-12 on the general rules governing public procurement;

Consequently, when assessing the extent to which these mechanisms are sufficient to ensure the effective protection of public funds, it becomes clear that the Algerian legislative system has provided the necessary legal framework for combating corruption in the field of public procurement, however, their practical effectiveness remains dependent on the quality of their implementation, the effectiveness of oversight bodies, and the level of legal and ethical awareness among public officials and economic operators. Corruption in public procurement is not merely a legal irregularity, but also a failure in the system of values and administrative conduct, making its prevention a shared responsibility between the legislature, the administration, the judiciary and civil society.

The study emphasized that genuine prevention of corruption does not begin at the stage of investigation or judicial proceedings, but rather stems from fostering a culture of legal awareness within the public administration and ensuring that officials involved in the various stages of public procurement have a thorough understanding of their professional obligations and the penalties for breaching them. This enables the legal framework to be transformed from a mere deterrent into an effective tool for guiding administrative behavior towards integrity and transparency.

Based on the findings, the study proposes a series of recommendations, the most important of which are:

- **Intensifying ongoing training and development programs** for the various stakeholders involved in public procurement, with a focus on the practical provisions of Law No.06-01, Law No.23-12 and Presidential Decree No.15-247, and linking training to practical experience and relevant case law.
- **Strengthening the role of The High Authority for Transparency, Prevention and Combating Corruption** as a central body in the national anti-corruption policy, by developing awareness-raising and guidance mechanisms and preparing practical guides for authorising officers and members of procurement committees and tender evaluation committees.
- **Accelerate the digital transformation of public procurement** through the widespread adoption of electronic platforms, thereby reducing human intervention, enhancing the traceability of procedures, and ensuring that information is accessible to all stakeholders, thus limiting opportunities for favouritism and manipulation.
- **Strengthening the ethical dimension of the fight against** corruption by instilling the values of integrity, accountability and commitment to the public interest among public officials, given that the protection of public funds is achieved not only through legal rules but also through an institutional culture based on professional ethics.
- **Strengthening coordination between the various administrative, financial and judicial oversight bodies and independent authorities** to ensure integration between prevention, detection and follow-up, and to enhance the effectiveness of the national anti-corruption policy.

Finally, the issue of combating corruption in public procurement remains an area open to academic research, particularly through studying the practical impact of digitalization on enhancing transparency, and assessing the effectiveness of The High Authority for Transparency, Prevention and Combating Corruption, as well as conducting comparative studies with leading international practices in the field of public governance, with the aim of developing the Algerian system to achieve more effective protection of public funds and to enshrine the principles of good governance and sustainable development.

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