

The Legal System of Parliamentary Investigation in Algeria

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Abstract:

Parliamentary investigations represent a key mechanism of parliamentary oversight exercised by investigative committees over the government. This tool is particularly significant due to the intensity, sensitivity, and potential impact it has on the government, given the nature of interactions between Parliament and the public administration within the context of such investigations. The government is constitutionally and politically accountable to Parliament. The 2020 Constitution underscores that each chamber of Parliament, within its jurisdiction, is empowered to establish investigative committees at any time to address matters of public interest. Parliamentary investigations serve as an effective means of overseeing governmental information, typically activated when there is doubt or uncertainty regarding a particular issue or when either chamber of Parliament questions the accuracy and credibility of information provided by the government.

Such investigations have direct implications for the principles of the separation of powers and the relationship between Parliament and the government. The Constitution, the organic law governing relations between Parliament and the government, as well as the internal rules of procedure for both chambers of Parliament, clearly and meticulously outline the procedures and steps involved in this mechanism. These legal texts demonstrate the extent to which the government is required to comply with binding constitutional procedures and deadlines, ensuring its responsiveness and engagement with the exercise of parliamentary oversight. This structured approach revitalizes and strengthens the oversight function, helping to achieve its intended goals effectively.

Keywords: *Parliamentary Investigation Committees; Constitution; Parliamentary Oversight; Parliament; Public Interest.*

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Introduction

Parliamentary investigation is a vital and highly sensitive mechanism in the broader context of parliamentary oversight over governmental activities. As such, the parliamentary investigation oversight mechanism is rigorously regulated, with its conditions, stages, and procedural aspects clearly outlined within the legal framework.

The importance of parliamentary investigation lies in its central role as a principal instrument of oversight in parliamentary systems. It contributes to maintaining institutional equilibrium by counterbalancing legislative authority against executive power, which exercises public prerogatives. In this sense, parliamentary investigation functions as an objective, fact-finding process directed at clarifying realities and assessing governmental conduct. Moreover, investigations of this kind can strengthen trust between citizens and the state, providing the state's reform agenda with added legitimacy and momentum, and enhancing its capacity to confront and manage diverse challenges.

Given the significance of this oversight instrument, this study seeks to elucidate the following aspects:

1. The concept of parliamentary investigation.
2. The legal framework governing parliamentary investigation oversight in Algeria, including its sources.
3. An analysis of the content of the legal system concerning parliamentary investigation oversight, focusing on its conditions and procedural elements.

The central question addressed in this paper is: What is the legal framework for parliamentary investigation in Algeria?

The answer to this question will be explored through the following structure:

Chapter One: The Nature of Parliamentary Investigation

- Section One: The Concept of Parliamentary Investigation
- Section Two: The Scope of Parliamentary Investigation
- Section Three: Conditions for Parliamentary Investigation

Chapter Two: The Legal Framework of Parliamentary Investigation Oversight in Algeria

- Section One: The Constitutional Source of Parliamentary Investigation Oversight in Algeria
- Section Two: The Legal Sources of Parliamentary Investigation Oversight in Algeria
- Section Three: The Regulatory Sources of Parliamentary Investigation Oversight in Algeria

Chapter One: The Nature of Parliamentary Investigation

The nature of parliamentary investigation is defined through the clarification of its concept, forms, and conditions, as outlined below:

Section One: The Concept of Parliamentary Investigation

Parliamentary investigation is a mechanism of parliamentary oversight carried out by members of parliament over government actions. A committee, composed of parliament members who are elected for this specific purpose, is tasked with investigating and inquiring into matters or issues of significant public concern. The goal is to uncover all relevant material and moral elements associated with the issue under investigation.

In exercising its authority, the committee is empowered to access all documents and materials pertinent to the matter being investigated and to inquire into all circumstances and facts surrounding it. Furthermore, the committee has the legal authority to summon officials to appear before it, offering an opportunity for direct examination and clarification.¹ This process allows for transparency and accountability within governmental operations.²

The investigation, conducted by a committee composed of parliament members, is designed to examine matters or issues of public interest. The committee's objective is to uncover all material and moral elements associated with the issue at hand.³

¹-Said Sayed Ali, *Constitutional Law: Parliamentary Inquiries and Investigations in Comparative Systems*, 1st Edition, Dar Al-Kitab Al-Hadith, Cairo, Egypt, 2009, p. 14.

²-Abdel Rachid Mamri, *Parliamentary Investigation Committees in the Algerian Constitutional System*, Journal of Law and Political Science, Issue 03, January 2015, University of Khenchela, Algeria, p. 235.

³-Abdel Wahab Al-Kayali, *Encyclopedia of Politics*, Part One, The Arab Foundation for Studies and Publishing, 2015, p. 699, and Mariam Al-Yami, *The Right of Parliamentary*

Parliamentary investigation is a process aimed at uncovering facts about a particular situation within the executive branch. The committee, made up of a specific number of members from the legislative body, seeks to identify any political violations. Based on its findings, the committee may propose actions such as initiating political accountability measures, correcting specific harms, or addressing particular errors. The results of the investigation are then presented to the legislative body through a comprehensive report.¹

The primary purpose of parliamentary investigation is to ensure the proper functioning of state institutions and to clarify issues of public concern. In practice, parliamentary investigation committees often create tension between the legislative and executive branches, which can result in ongoing disputes about the scope and limitations of these committees' authority. While these committees hold significant investigative power, they must avoid encroaching on matters within the jurisdiction of the judiciary. Moreover, their formation must not infringe upon citizens' rights, which are protected and guaranteed by the constitution.

Section Two: Scope of Parliamentary Investigation

Parliamentary investigation, depending on its subject matter, can take three distinct forms: political investigation, legislative investigation, and electoral investigation.

1. Political investigation:

Political investigation pertains to an inquiry carried out by a parliamentary investigation committee concerning a specific issue within the executive branch of the state. These investigations aim to ensure accountability within the government and its administration, providing transparency regarding the operations of state institutions.²

2. Legislative investigation:

on the other hand, is exercised by the legislative authority based on its constitutional competencies, powers, and procedures. The purpose of

Question: A Comparative Study, Bahrain Institute for Political Development, Studies Series, 2017.

¹-Mohamed Hicham El-Badry, *Parliamentary Investigation Committees*, Dar Al-Fikr Al-Arabi, 1993, p. 106, without specifying the country.

²-Said Sayed Ali, *Parliamentary Investigation: A Comparative Study*, Dar Abu Al-Majd for Printing, Giza, Egypt, 2009.

legislative investigation is to oversee the legislative process to ensure that the work being carried out is thorough and without deficiencies.¹

3. Electoral investigation:

As for the third type of investigation, it concerns the appeals submitted to parliament regarding the validity of its members' mandates. In such cases, a parliamentary investigation committee established for this purpose examines the legality of the procedures through which deputies were elected.

From these three distinct forms of parliamentary investigation, it becomes clear that parliament is the body vested with the authority to conduct these investigations. Despite the varying forms of investigations, parliament exercises them within its core supervisory role, as is evident in political investigations. At the same time, parliament retains its legislative and representational functions through legislative and electoral investigations.

Section Three: Conditions for Parliamentary Investigation

The exercise of parliamentary investigation oversight is subject to a number of well-defined and rigorous conditions. The most critical of these conditions are as follows:

1. The Condition of Defining, Classifying, and Appropriately Framing the Subject of Parliamentary Investigation Oversight:

The subject of the parliamentary investigation must be carefully defined, classified, and framed with precision and clarity by the relevant parliamentary authorities within the appropriate chamber of parliament. Such actions are often outlined in legislative texts, including constitutional provisions.²

The doctrine of parliamentary law emphasizes that the scope of parliamentary investigation oversight should be confined within this official framework to avoid ambiguity or overreach. Given the sensitivity

¹-Eugène Pierre, *Traité de Droit Politique, Électoral et Parlementaire*, 1924.

²-Article 159(1) of the 1 November 2020 Constitution provides that each chamber of Parliament may, within the scope of its constitutional competencies, establish parliamentary investigation committees at any time to examine matters of public interest.

and precision required in the oversight process, the investigation's scope must be clearly delineated to avoid any confusion or unintended encroachment on other areas of governance.¹

2. The Condition of Formation of the Parliamentary Investigation Committee by Twenty (20) Members

A parliamentary investigation committee must be initiated by at least twenty members, according to Article 78 of the organic law, ensuring a collective and legitimate process.

3. The Condition of an Ongoing Judicial Investigation Concerning the Subject of the Parliamentary Investigation Committee

When a parliamentary investigation committee initiates its work and, subsequently, a judicial investigation is commenced concerning the same issue, the parliamentary investigation committee is required to suspend its activities until the judicial investigation has been concluded. This stipulation is explicitly confirmed by Article 80 of the relevant organic law, ensuring that parliamentary investigations do not interfere with ongoing judicial processes.

4. The Condition of Completing the Investigation Within a Legally Defined Timeframe

A parliamentary investigation committee must complete its investigative proceedings within a legally specified time frame, which is set at six (6) months. According to Article 81 of the aforementioned organic law, no new parliamentary investigation committee can be formed on the same subject matter until a minimum period of twelve (12) months has passed since the conclusion of the initial investigation. This ensures a structured and regulated process for parliamentary investigations, preventing the continuous reopening of similar matters without sufficient passage of time.

5. The Requirement to Inform the Other Chamber and the Government

¹-Article 159(2) of the 1 November 2020 Constitution provides that no investigation committee may be established in respect of facts, acts, or matters that are the subject of ongoing judicial proceedings.

The chamber forming the investigation committee must inform the other chamber and the government about its formation and progress.

6. The Requirement of No Members of the Investigation Committee Being Part of the Initial Initiative

This stipulation prevents any potential conflicts of interest, ensuring that the investigation remains objective and free from any undue influence by those who may have originally proposed the inquiry.

7. The Requirement for Members of the Parliamentary Investigation Committee to Maintain Confidentiality

Members of parliamentary investigation committees are legally obligated to maintain strict confidentiality throughout the investigation process. They must protect the secrecy of facts, evidence, witnesses, and all investigative procedures.¹

Regarding the powers vested in parliamentary investigation committees, they are granted full authority and the necessary powers to carry out their investigative duties. Specifically, the committees have the right to summon individuals to provide testimony, inspect any locations relevant to the investigation, and access any documents or information pertinent to the investigation.

However, this authority is subject to certain limitations, as they are prohibited from accessing information concerning national security, defense strategies, vital national interests, and matters related to internal or external security.

The outcomes and consequences of a parliamentary investigation culminate in a report, which is subsequently subjected to a vote by the relevant chamber, in accordance with a formal resolution.

Parliamentary investigation varies according to its subject matter and takes three main forms: political, legislative, and electoral investigation. Political investigation focuses on examining issues within

¹-See the provisions of Articles 78, 80, 81, 82, 83 of Organic Law No. 16-12, dated August 25, 2016, amended and supplemented by Organic Law No. 23-06, dated May 18, 2023, which defines the organization of the National People's Assembly, the Council of the Nation, their work, and the functional relationships between them and the government.

the executive branch to strengthen government accountability and ensure transparency in the operation of state institutions. Legislative investigation is conducted within the legislature's constitutional powers to monitor the quality and completeness of the legislative process. Electoral investigation relates to parliament's representative function by scrutinizing matters connected to elections. Overall, despite these different forms, parliamentary investigation remains a key tool through which parliament fulfills its supervisory role while also preserving its legislative and representative responsibilities.

Chapter Two: The Legal Framework of Parliamentary Investigation Oversight in Algeria

There exists a detailed and precise legal framework governing the parliamentary investigation oversight mechanism in comparative parliamentary systems at large, and specifically within the Algerian parliamentary system.

This mechanism is of particular significance given the complex interactions between parliament and public administration in the realm of parliamentary investigations, as well as the government's political and constitutional accountability to parliament.

Section One: The Constitutional Source of Parliamentary Investigation Oversight in Algeria

These constitutional, legal, and regulatory foundations will be examined in greater detail. The Constitution serves as the primary and most authoritative source for establishing the parliamentary investigation oversight mechanism. This is explicitly reflected in Article 159 of the 2020 Constitution.

Article 159 affirms that each chamber of parliament, within the scope of its constitutional competencies, is authorized to establish parliamentary investigation committees at any time to address matters of public interest. However, it also stipulates that investigation committees cannot be formed for matters that are currently under judicial investigation, thereby ensuring that parliamentary inquiries do not interfere with the judicial process.

This provision underscores the legislator's commitment to safeguarding the public interest, a principle that is further confirmed by

Organic Law No. 16-12, which governs the relationship between parliament and the government. This law was later amended by Organic Law No. 23-06, further refining the regulatory framework within which parliamentary investigations are conducted.¹

Section Two: The Legal Sources of Parliamentary Investigation Oversight in Algeria

The legal sources for the parliamentary investigation oversight mechanism stem from the provisions of Organic Law No. 16-12, which governs the organization, functioning, and relationships between the National People's Assembly, the Council of the Nation, and the government, as amended by Organic Law No. 23-06, issued on May 18, 2023.

These laws specify the conditions, stages, and procedures for activating this mechanism, in line with Article 159 of the 2020 Constitution, which establishes that each chamber of parliament, within its respective competencies, may form parliamentary investigation committees at any time to address matters of public interest.²

Parliamentary investigation committees are formed according to internal regulations and must inform the other chamber and the government. They cannot investigate matters under judicial review involving the same facts or parties. Their work ends with a report within six months, extendable if needed.

No new committee can investigate the same subject until twelve months have passed. Members who signed the resolution creating the committee cannot serve on it. The law ensures confidentiality, grants access to information and individuals, and requires requests for hearings

¹-Article 77 of Organic Law No. 16-12, dated 22 Dhi Qa'da 1437, corresponding to August 25, 2016, which defines the organization of the National People's Assembly, the Council of the Nation, their work, and the functional relationships between them and the government, Official Gazette No. 50, 2016, amended and supplemented by Organic Law No. 23-06, dated 28 Shawwal 1444, corresponding to May 18, 2023, Official Gazette No. 35, 2023.

²-See Article 80 of Organic Law No. 16-12, dated August 25, 2016, which defines the organization of the National People's Assembly, the Council of the Nation, their work, and the functional relationships between them and the government, amended and supplemented by Organic Law No. 23-06, dated May 18, 2023.

with government members to be made through the Presidents of both chambers.

The scheduling of these hearings is to be arranged in coordination with the Prime Minister. The summons or request for a hearing is to be accompanied by a schedule for inspections and field visits to public institutions and administrative bodies for the purpose of inspections. Hearings are to be conducted under the hierarchical authority of those involved. Any failure to comply with the committee's requests is considered a serious oversight, which will be documented in the report, and the responsible supervising authority is held fully accountable.

The law exempts parliamentary investigation committees from accessing or obtaining copies of any documents that are classified as confidential and strategic, such as those related to national defense, vital national economic interests, and internal and external state security. However, the committee has unrestricted authority to access and obtain copies of all other documents.

The report prepared by the parliamentary investigation committee is submitted to the President of the Council of the Nation and the President of the National People's Assembly. The report is then delivered to both the President of the Republic and the Prime Minister.

It is subsequently distributed to the members of parliament in both chambers, as deemed appropriate, and the report may be published either in full or in part, contingent upon a decision made by the National People's Assembly and the Council of the Nation. This decision is based on a proposal from their respective Bureau and parliamentary group leaders, following consultation with the government.

A member of the investigation committee will present a summary outlining the arguments for or against the full or partial publication of the report. Both chambers may convene a closed session to discuss the potential publication of the report. These procedures are explicitly outlined in the organic law regulating the relationship between the government and parliament.¹

¹-See Articles 77 to 87 of Organic Law No. 16-12, dated August 25, 2016, which defines the organization of the National People's Assembly, the Council of the Nation, their work, and the functional relationships between them and the government, as amended and supplemented by Organic Law No. 23-06.

Section Three: Regulatory Sources of Parliamentary Investigation Oversight

The internal regulations of both the National People's Assembly and the Council of the Nation establish the procedures for each chamber, in line with the 2020 Constitution, particularly Article 159, and are further detailed in Articles 77 to 87 of Organic Law No. 16-12 (2016), amended by Organic Law No. 23-06 (2023). These laws outline the functioning, organization, and relationships between the National People's Assembly, the Council of the Nation, and the government, including legislative, administrative, and financial affairs.¹

For parliamentary investigation committees, both chambers follow the same procedures for formation and operation. Once a committee completes its work, it submits a report to the President of the Assembly or the Council, who must distribute it to members within 30 days. The committee may request a six-month extension, after which it must submit all documents to the Bureau.²

In the Council of the Nation, a Bureau is elected by the committee members to manage operations. The report is submitted to the President of the Council, communicated to the President and Prime Minister, and distributed to Council members. The Council may discuss the publication of the report in a closed session. The decision to publish the report in full or in part is made based on a proposal from the Bureau and parliamentary leaders, following the government's opinion. Both chambers may hold closed sessions to deliberate on this decision.³

In summary, the formation, operation, and reporting of parliamentary investigation committees are governed by internal regulations and organic laws, with provisions for extensions, resource allocation, and decisions on report publication.

Chapter Two explains that parliamentary investigation oversight in Algeria is governed by a structured hierarchy of legal sources.

¹-See the Internal Regulations of the National People's Assembly (2000), issued on 30 July 2017, *Official Gazette*, No. 46. See the Internal Regulations of the Council of the Nation, issued on 22 August 2017, *Official Gazette*, No. 49.

²-See Article 106 of the Internal Regulations of the Council of the Nation, issued on 22 August 2017, *Official Gazette*, No. 49.

³-See Article 87 of Organic Law No. 16-12, as amended and supplemented.

Constitutionally, Article 159 of the 2020 Constitution authorizes each chamber of parliament to create investigation committees on matters of public interest, while prohibiting investigations into issues already under judicial inquiry to prevent interference with the courts. Legally, the mechanism is detailed in Organic Law No. 16-12, as amended by Organic Law No. 23-06 (May 18, 2023), which sets out key rules on committee formation, notification of the other chamber and the government, confidentiality obligations, access to documents and hearings, and strict time limits (a six-month period, with restrictions on reopening the same subject for twelve months). Regulatory sources—namely the internal rules of both chambers—further organize procedures for committee management, report submission, distribution timelines, and decisions regarding full or partial publication of the final report, including the possibility of closed sessions.

Conclusion:

The Algerian parliamentary system possesses the legal authority to implement the investigative mechanism, alongside other oversight tools, to ensure government accountability. The legal framework governing this mechanism is meticulously defined, with clear provisions, conditions, and procedures for its implementation.

It is the responsibility of parliament to activate and effectively apply this mechanism, thereby exercising comprehensive oversight over government activities with prudence, a profound sense of national responsibility, and efficiency.

In light of the importance of parliamentary investigation as a critical oversight tool for monitoring government activities, the following recommendations are proposed to further enhance its value and effectiveness:

- The legislator should establish a clear distinction in the constitution between permanent parliamentary committees and parliamentary investigation committees, specifically in terms of their legal status and the distinct tasks assigned to each.
- Parliamentary investigation reports should be made subject to public discussion among deputies.
- The reports produced by parliamentary investigation committees should be published for public access, thus enhancing the role of

society in combating corruption, bribery, and favoritism, while also fostering greater engagement between citizens and the authorities.

- The outcomes that result from holding the government or its members constitutionally accountable should be clearly articulated and effectively implemented.
- Enhancing transparency and combating corruption by compelling the executive branch to provide clear explanations, justifications, and clarifications regarding its actions and decisions.
- Uncovering facts and collecting information to assess governmental performance and diagnose shortcomings and structural problems, without treating the investigation as a forum for criminal accusation or prosecution.
- Strengthening trust between citizens and the state, thereby reinforcing the state's capacity to confront and manage diverse political, economic, and social challenges.