

## Asset Declaration by Local Elected Officials under Algerian Legislation: "A Constitutional Safeguard for Enhancing Transparency and Promoting Ethical Standards in Public Life Requiring the Rectification of Deficiencies in the Legal Framework"

تصريح المنتخبين المحليين بممتلكاتهم في التشريع الجزائري: "ضمانة دستورية لتعزيز الشفافية وأخلاق الحياة العامة تتطلب تصحيح اختلالات الإطار القانوني"

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### الملخص:

بالرغم من أهمية التصريح بالممتلكات ودوره في الوقاية من الفساد، غير أن الملاحظ على هذه الآلية التي تم تكريسها دستوريا من أجل تعزيز الشفافية والنزاهة وأخلاق الحياة العامة، أنها لم تحظى بالعناية اللازمة من طرف المشرع، وقد تحول هذا الالتزام الدستوري إلى مجرد إجراء شكلي لا يحقق الغاية من تكريسها، وذلك بالنظر إلى ضعف وهشاشة الإطار القانوني الذي يضبط نطاق وإجراءات التصريح بالممتلكات، خاصة ما تعلق بضبط آجال اكتتاب التصريح، وعملية نشره والهيئة المخول لها رقابة نشر التصريح بالممتلكات، بالإضافة إلى الاختلالات المتعلقة بالمتابعات القضائية في حالة عدم الالتزام بهذا الالتزام الدستوري، لذلك من الضروري إعادة النظر في النصوص التشريعية والتنظيمية المؤطرة للتصريح بالممتلكات، ومعالجة كل الثغرات القانونية حتى تتحقق الغاية من تكريس هذه الضمانة الدستورية.

**الكلمات المفتاحية:** التصريح بالممتلكات، الموظف، المنتخب، الوقاية من الفساد، النزاهة.

### Abstract:

Despite the importance of asset declaration and its role in the prevention of corruption, this mechanism, which has been constitutionally enshrined to enhance transparency, integrity, and ethical standards in public life, has not received adequate attention from the legislator. Consequently, this constitutional obligation has been reduced to a mere formal procedure that fails to achieve the objectives underlying its establishment. This is attributable to the limited and fragile legal framework governing the scope and procedures of asset declaration, in addition to the shortcomings related to judicial proceedings in cases of non-compliance with this constitutional obligation. It is therefore imperative to reconsider the legal framework governing asset declaration and address all existing legal loopholes in order to ensure the effective realization of the objectives pursued through the establishment of this constitutional safeguard.

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**KEY WORDS:** Asset declaration; public official; elected official; prevention of corruption; integrity.

**Introduction:**

Given the serious repercussions of corruption on economic activity and the social fabric as a whole, all states have sought to establish measures and mechanisms to contain this phenomenon, through the necessity of concerted international efforts to confront it. These efforts began with the adoption of the United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on 31 October 2003, which is considered a cornerstone in the fight against this phenomenon.

In this context, Algeria ratified this Convention with reservations in 2004, pursuant to Presidential Decree No. 04-128 of 19 April 2004. It also ratified another instrument, namely the African Union Convention on Preventing and Combating Corruption, on 10 April 2006. Subsequently, Algeria began working on establishing legislative and institutional frameworks that would enable it to address and combat corruption, in addition to the need to regulate and adapt its legislation in order to bring it into conformity with the provisions of these conventions.

This process began with the issuance of the legal framework for the prevention and fight against corruption, represented by Law No. 06-01 of 20 February 2006 on the prevention and combating of corruption<sup>1</sup>. This was followed by a series of related legal texts, as Algeria continued its efforts to develop a legislative system capable of confronting corruption and protecting public funds, by giving increased attention to this phenomenon at the constitutional level, particularly with regard to the establishment of constitutional safeguards for the protection of public funds and the fight against corruption. This was reflected in the constitutionalization of anti-corruption principles through the constitutional amendments of 2016<sup>2</sup> and 2020<sup>3</sup>.

Among the guarantees and mechanisms enshrined by the constitutional legislator for the prevention of corruption is the asset declaration mechanism, which was constitutionalized starting from the 2016 constitutional amendment, and subsequently reaffirmed in the 2020<sup>4</sup> constitutional amendment. It was also established at the legislative level beginning with Ordinance No. 97-04 of 11 January 1997 relating to asset declaration, followed by Law No. 06-01 of 8 March 2006, as amended and supplemented, in addition to recent reforms introduced by Law No. 22-08 of 5 May 2022, which defines the organization, composition, and powers of the High Authority for Transparency, Prevention of Corruption, and its Combat<sup>5</sup>.

Accordingly, Algerian legislation requires any person entrusted with public authority to disclose to the competent authorities all their assets and to submit a declaration of their financial situation, in order to detect any illicit enrichment that may be inconsistent with their financial resources. The purpose of this mechanism is to monitor the evolution of their financial status and to identify cases of rapid wealth accumulation that may indicate involvement in corruption-related offenses.

Given the importance of asset declaration in the prevention of corruption offences, a comprehensive legal framework has been established to regulate this constitutional obligation.

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Accordingly, it is necessary to examine and assess the legislative and regulatory provisions governing the asset declaration mechanism in order to determine the extent of its effectiveness in achieving transparency, integrity, the ethicalization of public life, the prevention of corruption offences, and the protection of public funds.

On this basis, and in order to gain a deeper understanding of the subject and address its various dimensions, the following research question is raised:

**If successive constitutional and legislative reforms have enshrined several constitutional safeguards aimed at preventing and combating corruption, including the asset declaration mechanism, to what extent have the legislative and regulatory texts governing this procedure succeeded in ensuring its effectiveness in achieving transparency, integrity, the prevention of corruption offences, and the ethicalization of public life?**

To answer this research question, the study has been divided into two sections. The first section addresses the legal gaps related to the scope and procedures of asset declaration, while the second section focuses on the shortcomings concerning judicial proceedings in cases of failure to comply with the obligation of asset declaration.

## **I: The Limitations of the Legal Framework Governing the Scope and Procedures of Asset Declaration.**

The scope and procedures of asset declaration are regulated by Article 24, paragraph 4 of the Constitution, which states that: "... any person appointed to a senior state function, or elected or appointed to Parliament, to a national body, or elected to a local council, must declare their assets at the beginning and at the end of their term or mandate..." This is in addition to other legislative provisions, including Law No. 06-01, as amended and supplemented, and other regulatory texts. However, upon examining these rules governing asset declaration, several shortcomings have been identified in the legal framework governing its scope and procedures.

### **1- The Scope of Asset Declaration.**

Referring to the provisions of Law No. 06-01, as amended and supplemented, as well as other regulatory texts, it is evident that they have defined the scope of asset declaration, both in terms of identifying the individuals subject to the obligation of declaring their assets (Subsection One) and in terms of specifying the assets subject to declaration, i.e., the subject matter of asset declaration (Subsection Two).

#### **1-1 The Absence of a Unified Legal List of Persons Subject to Asset Declaration.**

One of the most notable features of Law No. 06-01, as amended and supplemented, is that it does not establish a comprehensive and exhaustive list of persons required to declare their assets. Instead, Article 6 of the said law only identifies certain high-ranking positions, namely the President of the Republic, the Prime Minister, members of the Government, members of both chambers of Parliament, members of the Constitutional Council (now the Constitutional Court), the President of the Court of Accounts, the Governor of the Bank of Algeria, ambassadors and consuls, provincial governors (Walis), judges, and members of municipal and provincial popular assemblies.

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However, the law refers the modalities of declaration for other categories of public officials to regulatory instruments. In this regard, Presidential Decree No. 06-415 of 22 November 2006, as amended and supplemented by Presidential Decree No. 24-216 of 27 June 2024, was issued to determine the procedures for asset declaration for employees not covered by Article 6 of Law No. 06-01 aforementioned<sup>6</sup>.

Furthermore, Article 2, paragraph 3 of Presidential Decree No. 06-415 provides for another category of public officials whose list is to be determined by ministerial decision. Accordingly, Ministerial Order of 2 April 2007 was issued, establishing the list of public agents subject to the obligation of asset declaration and including an annexed detailed list of such agents. This list was later amended and supplemented by another order dated 16 January 2017 aforementioned<sup>7</sup>.

**1-2 Issues Relating to the Assets Subject to Declaration: "Declaration Limited to the Assets of the Declarant and Those of Minor Children"**

In addition to identifying the list of persons subject to the obligation of asset declaration, it is also necessary to define the subject matter of the declaration, namely the assets that must be declared by the individuals concerned. Referring to the provisions of Law No. 06-01, and in particular Article 5 thereof, it stipulates that the asset declaration provided for in Article 4 above shall include an inventory of immovable and movable property held by the declarant and his minor children, even in joint ownership, whether in Algeria or abroad.

From Article 4 mentioned above, it is clear that the declaration covers all categories of assets, including private property, and extends to their location, whether within the national territory or abroad. However, this declaration is limited to the declarant's personal assets and those of his minor children only.

Thus, the public official subject to the declaration obligation declares his own assets in their various forms, as previously indicated, as well as those of his minor children who have not yet reached the legal age of majority. Consequently, the asset declaration does not include the property of adult children, nor that of the spouse<sup>8</sup>.

It is observed that the Algerian legislator has confined the obligation of declaration to the assets of the public official and those of his minor children, while overlooking the assets of the spouse and adult children. Despite the principle of separation of financial estates between spouses, the failure to include the spouse's assets constitutes an obstacle to the fight against corruption<sup>9</sup>.

Indeed, a public official may register illicitly acquired funds not under his own name, but under the names of close relatives, such as his spouse. The Presidential Instruction on strengthening the fight against corruption issued in 2009 emphasized the necessity of including the spouse's assets in the declaration. It stated that "...the legal framework governing asset declaration applicable to all state agents must be updated, and asset declaration must apply at all levels, including the declaration of the assets of the spouse and children...". However, although Law No. 06-01 has been amended twice, unfortunately this instruction has not been taken into consideration.

**2- Ambiguities in Asset Declaration Procedures.**

The procedures governing asset declaration are set out in Law No. 06-01 on the prevention

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and fight against corruption, as amended and supplemented, as well as Law No. 22-08 defining the organization, composition, and powers of the High Authority for Transparency, Prevention of Corruption, and its Combat. These procedures concern compliance with legal deadlines for filing declarations, the authority before which declarations must be submitted, as well as the publication of asset declarations. However, upon examining these procedures, significant shortcomings and deficiencies become apparent, which undermine the effectiveness of this mechanism in achieving its intended objective, namely the prevention of corruption.

**2-1 Legal Deficiencies Related to the Statutory Time Limits for Filing Asset Declarations.**

Referring to the provisions of Article 4 of Law No. 06-01, as amended and supplemented, asset declaration is carried out in three stages. Individuals subject to the obligation must comply with a one-month deadline starting from the date of appointment to office or the beginning of the electoral mandate, as a general rule. They are also required to update their declarations in the event of any change in their financial situation, in addition to the obligation to submit an asset declaration at the end of their function or mandate.

**a) - Ambiguity Regarding the Initial Declaration Deadline for Public Officials Not Covered by Article 6 of Law No. 06-01, as amended and supplemented.**

If the legislator has explicitly stipulated the time limits for the initial asset declaration with regard to the categories referred to in Article 6, paragraphs 1 and 2 thereof, it has, by contrast, delegated the modalities of asset declaration for other categories of public officials to regulatory instruments. Referring to Presidential Decree No. 24-216 of 27 June 2024, amending and supplementing Presidential Decree No. 06-415 of 22 November 2006, which determines the modalities of asset declaration for public officials not covered by Article 6 of the Law on the Prevention and Fight against Corruption, it is noted that no specific time limits have been set for the submission of asset declarations by this category to the High Authority for Transparency, Prevention of Corruption and its Combat.

The decree merely provides that public officials not covered by Article 6 of Law No. 06-01 must complete their asset declarations before the supervisory authority in the case of officials occupying senior positions in the State, or before the direct hierarchical authority for those whose list is determined by a decision of the authority in charge of the civil service. The declarations are then submitted, against receipt, by the supervisory or hierarchical authority to the High Authority for Transparency, Prevention of Corruption and its Combat within a "reasonable time". This formulation implies that the supervisory and hierarchical authorities are not bound by any specific deadline for forwarding the declarations to the High Authority, which may lead to delays in transmitting declaration files to the latter.

**b) The Need to Regulate the Mechanism of the Updating Declaration.**

Article 4, paragraph 3 of Law No. 06-01 clearly provides for the updating of asset declarations when it states that: "...this declaration shall be renewed immediately upon any significant increase in the public official's assets, under the same conditions as the initial declaration." Thus, the article establishes that the asset declaration must be updated whenever a significant increase occurs in the public official's financial situation, and that this update must follow the same procedures as the initial declaration.

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This indicates that individuals subject to the declaration obligation must renew their asset declarations upon any significant increase in their assets, within one month following the occurrence of such increase. However, with regard to judges, the renewal of the declaration is not linked to a significant increase in assets; rather, judges are required to renew their declarations every five years and upon each appointment to a specific function.

In this context, it is observed that the renewal of the declaration is conditioned by the occurrence of a significant increase in assets; however, the legislator has not defined clear criteria for what constitutes such an increase, nor has it specified a precise deadline for the updating declaration. The expression “immediately upon a significant increase” suggests urgency, but without establishing a fixed legal timeframe<sup>10</sup>.

Consequently, Algerian legislation has not aligned itself with certain comparative legal systems, including Moroccan legislation. The latter explicitly sets deadlines for the periodic declaration, which is every three years in the month of February for members of the government, members of the two chambers of Parliament, as well as public officials and agents, and every two years in February for local elected officials and professional chambers. It also provides for another type of declaration, namely the supplementary declaration, which must be submitted within three months following any change in assets or income<sup>11</sup>.

**c) Legal Gaps Concerning the Time Limits for the Final Declaration.**

In addition to the establishment of initial and updating declarations, the final asset declaration has also been instituted in order to ensure the effectiveness of this obligation, by requiring the declaration of assets at the end of service or mandate. This aims to identify any unjustified discrepancy in the financial situation that may arise between the beginning and the end of the term of office, as provided for in Article 4, paragraph 4, which states: “...assets must also be declared at the end of the electoral mandate or upon termination of service.”

It is observed that the legislator, through the aforementioned Article 4, did not specify any time limits for the final asset declaration. This omission is considered to deprive the declaration procedure of its substantive content and its fundamental objective, namely the monitoring of the public official’s financial situation. By leaving the declaration open-ended without establishing a fixed deadline, individuals subject to this obligation may effectively evade compliance with it<sup>12</sup>.

Consequently, it is noted that the legislator has regressed from what was previously established under the repealed Ordinance No. 97-04 of 11 January 1997 relating to asset declaration, which addressed this issue in Article 7. This provision stipulated that the persons referred to in Articles 4, 5, and 6 of the ordinance were required to renew their asset declarations within one month following the end of their mandate or duties, except in the case of death. This deadline could be extended to one additional month in cases of force majeure<sup>13</sup>.

This approach stands in contrast to certain comparative legal systems. Moroccan legislation, for instance, explicitly provides for clear deadlines for the final asset declaration: two months for public officials and civil servants, and three months for elected officials.

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**Table N°1: Comparison of the deadlines for the declaration of assets under Algerian and Moroccan law**

| <b>Comparison of the Time Limits for Asset Declaration in Algerian and Moroccan Legislation</b> |                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                 | <b>Initial declaration</b>                                                                                                                                                                                                                                                                                                     | <b>Updating declaration</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Final declaration</b>                                                                                                                                                                                                                                                                                           |
| <b>Time limits for asset declaration in Algeria</b>                                             | <p>It must be submitted within one month following the date of appointment to office or the beginning of the electoral mandate (Article 4, paragraph 2).</p> <p>This deadline may be extended to two months, starting from the date of the legal reminder to comply with the obligation of asset declaration (Article 36).</p> | <p>Article 4, paragraph 3: The asset declaration must be updated immediately upon any significant increase in the official's financial assets, under the same procedures as the initial declaration (i.e., within one month from the date of the increase in assets).</p> <p>Note: Judges must renew their asset declarations every five years and upon each appointment to a specific position.</p>                                                                                                                                                            | <p>Article 4, paragraph 4: Assets must be declared at the end of the electoral mandate or upon termination of service.</p> <p>Note: The legislator has omitted to specify the legal time limit for submitting the final declaration, in contrast to Ordinance No. 97-04, whose Article 7 addressed this issue.</p> |
| <b>Time limits for asset declaration in Morocco</b>                                             | <p>It must be submitted within three months following the commencement of duties for public officials and civil servants, or following the announcement of their election for the category of elected officials.</p>                                                                                                           | <p>Every three years in February for members of the government, members of both Houses of Parliament, as well as obligated public officials and civil servants.</p> <p>Every two years in February for local elected officials and members of professional chambers.</p> <p>Note: There is also a supplementary declaration, which must be submitted within three months following any change in assets or income. It is noteworthy that Moroccan legislation has explicitly set the time limits for the updating declaration, unlike Algerian legislation.</p> | <p>Within two months for public officials and civil servants.</p> <p>Within three months for elected officials.</p> <p>It is noted that Moroccan legislation has explicitly set the time limits for the final asset declaration, in contrast to Algerian legislation.</p>                                          |

**Table prepared by the researcher**

## **2-2 Determining the Competent Authority for Receiving Asset Declarations.**

One of the most distinctive features of Law No. 06-01, as previously mentioned, is the distribution of jurisdiction for receiving asset declarations among several authorities, rather than concentrating it in a single body. This allocation varies according to the categories of persons subject to the declaration obligation. Accordingly, local elected officials submit their declarations to the National Authority for the Prevention and Fight against Corruption; the category referred to in Article 6, paragraph 1 of Law No. 06-01, as amended and supplemented, declares before the First President of the Supreme Court; public officials occupying senior positions in the State declare before the supervisory authority; while public officials whose list is determined by decision of the authority in charge of the civil service submit their declarations before the direct hierarchical authority. The supervisory and hierarchical authorities are then responsible for transmitting the files to the High Authority for Transparency, Prevention of Corruption and its Combat.

However, the submission of asset declarations by officials and elected representatives before the First President of the Supreme Court raises several legal issues. The First President of the Supreme Court is competent only to receive such declarations, but is not empowered to exploit them, conduct investigations, pursue declarants, or refer cases to the judiciary. Moreover, the body is not competent to receive declarations from this category or to ensure follow-up in the event of any irregularities in the declarations. It is also noted that the legislator has retreated from the provisions of Ordinance No. 97-04 on asset declarations, which granted the Asset Declaration Committee the power to receive declarations and directly refer cases to the judiciary.

Another issue concerns the authority before which the First President of the Supreme Court is required to declare his own assets<sup>14</sup>. The current legislation does not specify this authority, unlike the repealed Ordinance No. 97-04 on asset declaration, which designated the Asset Declaration Committee as the competent body for receiving such declarations.

However, since the enactment of Law No. 22-08, which defines the organization, composition, and powers of the High Authority for Transparency, Prevention of Corruption and its Combat, there has been a shift toward strengthening the powers of this institution in terms of monitoring and oversight in cases of violations of integrity rules. Referring to Articles 4 and 10 of Law No. 22-08, it is evident that the core functions of this constitutional institution include ensuring transparency and integrity in public affairs management, as well as receiving, processing, and monitoring asset declarations. In the event of a breach of transparency and integrity principles, the Authority may, on its own initiative or upon notification, refer the matter to the territorially competent Public Prosecutor after formally notifying the concerned person in cases of failure to declare or false declaration.

Consequently, when the High Authority for Transparency, Prevention of Corruption and its Combat identifies facts that may constitute a criminal offence, it may, on its own initiative or upon notification, directly refer the matter to the Public Prosecutor in order to initiate

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criminal proceedings. This represents a departure from Ordinance No. 06-01, which required the Authority to transmit the file to the Minister of Justice, who would then refer it to the Public Prosecutor for the initiation of criminal proceedings.

**Table N°2: The body responsible for receiving the declaration of assets pursuant to Law No. 01-06, as amended and supplemented, Law No. 22-08 and Presidential Decree No. 216-24**

| <b>The authority competent to receive asset declarations under Law No. 22-08</b>                                                                                                                                                          |                                                                                                                                     |                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Declaration before the First President of the Supreme Court</b>                                                                                                                                                                        | <b>Before the High Authority for Transparency, Prevention of Corruption and its Combat, in the case of local elected officials.</b> | <b>Before the supervisory authority, for public officials occupying senior positions in the State.</b>                                                                                                                                                                                                                      | <b>Before the direct hierarchical authority, for public officials whose list is determined by a decision of the authority in charge of the civil service.</b>                                                                                                                                                                                                                                                          |
| The category referred to in Article 6, paragraph 1 of Law No. 06-01, as amended and supplemented.<br>Note: An issue arises regarding the authority before which the First President of the Supreme Court must declare his assets.         | -Article 42 of Law No. 22-08<br><br>-Article 6, paragraph 2 of Law No. 06-01, as amended and supplemented                           | -Article 2 of Presidential Decree No. 24-216 of 27 June 2024, amending and supplementing Presidential Decree No. 06-415 of 22 November 2006, relating to the determination of the modalities for asset declaration for public officials not covered by Article 6 of the Law on the Prevention and Fight against Corruption. | -Article 2 of Presidential Decree No. 24-216 of 27 June 2024, amending and supplementing Presidential Decree No. 06-415 of 22 November 2006, relating to the determination of the modalities for asset declaration for public officials not covered by Article 6 of the Law on the Prevention and Fight against Corruption.<br><br>Decision of 16 January 2017 issued by the Directorate General of the Civil Service. |
| <b>Note: After receiving the asset declarations, the supervisory authority and the hierarchical authority submit them to the High Authority for Transparency, Prevention of Corruption and its Combat within a reasonable time limit.</b> |                                                                                                                                     |                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                        |

**Table prepared by the researcher**

### **3- Legal Shortcomings Related to the Publication of Asset Declarations**

The publication of asset declarations is an important mechanism, as it plays a key role in disclosing assets and enabling public opinion to be informed about the property acquired by officials, including potentially illicitly acquired wealth<sup>15</sup>. However, Law No. 06-01, as amended and supplemented, has established two methods of publication: publication in the Official Gazette and posting at the headquarters of the municipality or province (wilaya).

Nevertheless, the legislator has not regulated the publication procedure in a precise manner, and several legal gaps have emerged. These include limiting publication to the initial declaration only, excluding both the updating declaration and the final declaration (Paragraph One); the non-extension of this obligation to all categories of officials (Paragraph Two); and the absence of any legal sanction for failure to publish asset declarations (Paragraph Three).

#### **3-1 Limiting Publication to the Initial Declaration without the Updating and Final Declarations**

Under Law No. 06-01, publication is limited solely to the initial declaration. However, the law does not provide for the publication of the asset declaration in the event of a significant increase in the declarant's financial situation (updating declaration), nor does it provide for publication at the end of the mandate or employment (final declaration). This omission undermines the effectiveness of the declaration mechanism, particularly with regard to identifying the difference in the financial situation between the initial and final declarations<sup>16</sup>.

#### **3-2 Failure to Generalize the Obligation of Publishing Asset Declarations**

In addition to the legal gaps and shortcomings related to the publication procedure, it is also evident from Law No. 06-01 that the publication of asset declarations applies only to the category provided for in Article 6, paragraph 1, as well as the category referred to in paragraph 2 of the same article.

As for other public officials not covered by Article 6 of the Law on the Prevention and Fight against Corruption, Article 2 of Presidential Decree No. 24-216 of 27 June 2024, amending and supplementing Presidential Decree No. 06-415 of 22 November 2006, which determines the modalities of asset declaration for officials not covered by Article 6, does not provide for the publication of asset declarations for this category. The same applies to the Basic Statute of the Judiciary (Law No. 04-11), which also fails to provide for the publication of judges' declarations.

#### **3-3 Absence of a Sanction for Failure to Publish Asset Declarations**

In addition to the aforementioned shortcomings concerning the publication mechanism, the legislator has not designated any authority responsible for monitoring the publication of asset declarations in the Official Journal or their posting at municipal or provincial headquarters. As a result, there is a lack of compliance with the legal deadlines for publication across all categories subject to this constitutional obligation, mainly due to the absence of any legal sanction in the event of non-publication.

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**Table N°3: Time limit for publication of asset declarations**

|                             | <b>Time limit for publication of asset declarations</b>                                                                                                                                                                                                    |                                                                                                                                                                        |                                                                                                                                                            |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | <b>Category referred to in Article 6, paragraph 1 of Law No. 06-01, as amended and supplemented</b>                                                                                                                                                        | <b>Members of the municipal and provincial (wilaya) popular assemblies</b>                                                                                             | <b>Other officials subject to the declaration obligation</b>                                                                                               |
| <b>Initial declaration</b>  | The asset declaration shall be published in the Official Gazette within two months following their election or assumption of duties.                                                                                                                       | It shall be published by posting on the notice board at the headquarters of the municipality or province within one month from the beginning of the electoral mandate. | The legislator did not address the publication of asset declarations for other public officials not covered by Article 6 of Law No. 06-01, nor for judges. |
| <b>Updating declaration</b> | Lack of provision for the publication of the updating (renewal) asset declaration                                                                                                                                                                          |                                                                                                                                                                        |                                                                                                                                                            |
| <b>Final declaration</b>    | The legislator did not provide for the publication of the final asset declaration, in contrast to Ordinance No. 97-04, which stipulated the obligation to publish the asset declaration within two months following the end of their membership or duties. |                                                                                                                                                                        |                                                                                                                                                            |

**Table prepared by the researcher**

Consequently, and from all the foregoing, it is clearly evident that the legislative and regulatory provisions governing the legal framework of the asset declaration procedure are weak, limited, and fragile, whether in relation to regulating the time limits for submitting declarations, the publication process, the monitoring of such publication, or the sanctions for failure to comply with publication requirements. These shortcomings have resulted in significant legal gaps that reduce this constitutional obligation to a mere formal procedure that fails to achieve its intended purpose, namely preventing corruption, strengthening transparency in public affairs management, limiting the abuse of privileges, and safeguarding the integrity of public officials.

This is further confirmed by the figures issued by the High Authority for Transparency, Prevention of Corruption and its Combat in its 2022 report, which reveal non-compliance by local elected officials with the obligation to declare their assets, both under the previous mandate (2017–2021) and the current mandate (2021–2026). This contrasts with public officials occupying senior positions within central government administrations, as well as

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within public institutions and bodies, where a high level of compliance and responsiveness to the declaration obligation has been observed.

The report indicates that, during the previous mandate of municipal and provincial popular assemblies (2017–2021), the initial declaration rate reached 96.7%, whereas the final declaration rate was very low, at only 32.56%. Accordingly, 67.44% of local elected officials failed to comply with this constitutional obligation, particularly members of the municipal and provincial popular assemblies of the Wilaya of Algiers, who did not submit any asset declarations.

As for the beginning of the current mandate of municipal and provincial popular assemblies (2021–2026), and up to 31 December 2022, the rate of compliance was extremely low and almost negligible. The initial declaration rate stood at 14.95%, while the proportion of members who failed to comply with the declaration obligation reached 85.05%. Furthermore, in 50 wilayas, members of local assemblies did not submit their asset declarations, particularly those of the municipal and provincial popular assemblies of the Wilaya of Algiers.

(See the Annual Report 2022 of the High Authority for Transparency, Prevention of Corruption and its Combat, published on its official website: <http://hatplc.dz> Date of Access July 22nd 2024)

## **II: Irregularities Related to the Effects Resulting from the Breach of the Obligation of Asset Declaration.**

Given the importance of the asset declaration procedure, which plays a preventive role in combating corruption and protecting public funds, any breach of this constitutional obligation directly triggers punitive and deterrent measures. This is achieved through the criminalization of the failure to comply with the obligation of asset declaration and the imposition of appropriate sanctions for this offence committed by public officials or elected representatives who are subject to this requirement (first subsection).

However, despite the establishment of deterrent sanctions against violators to enforce compliance with the obligation of asset declaration, an examination of the legal framework governing this mechanism reveals certain legal loopholes concerning the initiation of public prosecution in cases involving criminally qualified acts. These gaps result in shielding and allowing individuals bound by this constitutional obligation to evade judicial proceedings and penalties. Consequently, this constitutional safeguard is reduced to a mere formal procedure that fails to achieve its intended objective, namely the moralization of public life and the construction of a “New Algeria” founded on the principles of transparency, integrity, and accountability.

Therefore, it is necessary to introduce fundamental reforms to the legal framework governing sanctions for the breach of the asset declaration obligation, in order to align it with comparative legislation that has established a variety of strict penalties capable of addressing such violations. This should not be limited to criminal sanctions alone but must also include disciplinary measures such as dismissal from office, prohibition from holding public positions, as well as ineligibility to run for elections for a specified period, and removal of membership from elected assemblies. Furthermore, it is essential to address all issues related

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to the impossibility of prosecuting certain categories in cases of breach due to immunity or statutes of limitation (second subsection).

**1: Criminalization of the Breach of the Obligation of Asset Declaration.**

The breach by a public official or elected representative of the obligation to declare assets constitutes a criminal offence punishable under Article 36 of Law No. 06-01, as amended and supplemented. Like other offences, this crime is based on three essential elements:

The material element: This is established through the refusal of the official or elected representative, who is subject to the declaration obligation, to comply with the requirement after the expiry of two months following a formal reminder to do so. This refusal may be total, i.e., complete non-declaration, or it may consist of submitting a false or incomplete declaration.

The moral element (*mens rea*): For the offence of breach of the asset declaration obligation to be constituted, general criminal intent must be established, based on knowledge and will. Accordingly, the breach must be intentional, which may lead to impunity by affecting the criminal prosecution of the official who has failed to comply with the obligation of declaration<sup>17</sup>. This was addressed by the legislator under the repealed Ordinance 97-04, which did not require the presence of criminal intent in order to impose sanctions on officials who failed to declare assets, whether through non-declaration or inaccurate declaration. Therefore, the legislator should have provided for punishment for mere failure to declare or for false declaration, even if resulting from negligence, without requiring proof of criminal intent.

The presumed element: This relates to determining the status of the offender, who must belong to the category of persons legally required to declare their assets, as defined either in Article 06 of Law 06-01 (as amended and supplemented) or under specific regulatory provisions.

**2: Legal Gaps Related to the Initiation of Public Prosecution and the Application of Sanctions for Breach of the Obligation of Asset Declaration.**

The legislator, through Law No. 06-01, as amended and supplemented, has criminalized the breach of the obligation of asset declaration and specified the applicable sanctions in cases of non-declaration or false declaration (first section). However, it is evident from an examination of the legal provisions governing this mechanism that there are legal gaps related to the monitoring of asset declarations and the initiation of public prosecution in cases involving criminally qualified acts. These gaps result in shielding individuals bound by this constitutional obligation and allowing them to evade judicial proceedings, due to the difficulty of initiating public prosecution or issues related to the prosecution of certain categories enjoying immunity (second section).

**2-1: Legal Shortcomings in the Process of Initiating Public Prosecution in Cases of Breach of the Obligation of Asset Declaration: "Between Law No. 06-01 and Law No. 22-08"**

One of the main features of criminal proceedings in cases of breach of the obligation of asset declaration is that the National Authority for the Prevention and Combating of

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Corruption is not empowered to directly request the Public Prosecutor's Office to initiate public prosecution. Referring to Article 22 of Law No. 06-01, which falls under the heading "The Authority's Relationship with the Judicial Authority," it provides that: "When the Authority becomes aware of facts that may constitute a criminal offence, it shall forward the file to the Minister of Justice, Keeper of the Seals, who shall refer the matter to the competent Public Prosecutor for the initiation of public prosecution, where appropriate."

From this provision, it is clear that when the Authority establishes a breach of the obligation of asset declaration, it does not directly refer the matter to the Public Prosecutor's Office. Instead, the legislator requires it to transmit the file to the Minister of Justice, who then notifies the Public Prosecutor to initiate proceedings. This raises a legal issue in cases where the Minister of Justice himself has failed to declare his assets, in which case it becomes unclear how he can be notified, given that he is the person concerned by the breach.

Furthermore, with regard to other categories of officials who declare their assets before the First President of the Supreme Court, the legislator has not specified the competent authority responsible for initiating public prosecution. This is particularly significant since the role of the First President of the Supreme Court is limited to receiving declarations without examining, verifying, monitoring, or initiating proceedings in case of a breach of the obligation of asset declaration.

Accordingly, in light of the deficiencies that characterized the legal framework of the National Authority for the Prevention and Combating of Corruption—which rendered it largely incapable of performing its monitoring and oversight functions in cases of violations of integrity and anti-corruption rules—the constitutional legislator moved away from this body and replaced it with another constitutional institution, namely the High Authority for Transparency, Prevention and Combating of Corruption. This shift reflects a constitutional emphasis on strengthening oversight functions and upgrading the institution from an advisory body to a control authority, along with enhancing its legal status and expanding its powers.

Whereas the National Authority for the Prevention and Combating of Corruption was characterized by an advisory nature under the 2016 constitutional revision (Articles 202 and 203), the latest constitutional amendment has addressed these shortcomings by placing the High Authority for Transparency, Prevention and Combating of Corruption under the chapter dedicated to oversight institutions (Articles 204 and 205).

Thus, the constitutional amendment introduced an independent oversight institution not subordinate to any other body, replacing the former Authority with the High Authority and elevating it from an advisory institution to an oversight institution, thereby strengthening its independence in exercising its constitutional functions, unlike the 2016 amendment, which placed it under the authority of the President of the Republic.

Among the new developments introduced by the constitutional amendment is the normative upgrading of the legal instrument governing the organization, composition, and powers of the High Authority for Transparency, Prevention and Combating of Corruption. Its organization and powers are now regulated by a parliamentary statute, namely Law No. 22-08 of 5 May 2022, which defines its structure, composition, and powers, unlike the previous

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national authority, which was governed by two different legal instruments of differing legal nature.

In addition, the powers of the High Authority have been reinforced through the introduction of new functions, particularly the development of a national strategy for transparency, prevention, and combating corruption, as well as ensuring its implementation and follow-up. This contrasts with the former Authority, whose role was limited to proposing a comprehensive policy for corruption prevention and control.

The constitutional legislator has also empowered the High Authority to refer matters to the Court of Auditors and the competent judicial authorities whenever irregularities are identified, and to issue instructions to relevant institutions and bodies. This power constitutes a constitutional safeguard for the Authority's oversight of public funds and anti-corruption efforts. However, this guarantee is somewhat limited by the use of the phrase "where appropriate."

Furthermore, an important new power has been introduced, namely the ability to initiate public prosecution in cases where facts with a criminal character are identified. This allows the High Authority to directly notify the Public Prosecutor's Office without passing through the Minister of Justice, unlike Law No. 06-01, which required the Authority to transmit the file to the Minister of Justice, who would then refer it to the Public Prosecutor.

This is provided for in Article 12, paragraph 1, which states: "When the High Authority becomes aware of facts that may constitute a criminal offence, it shall notify the territorially competent Public Prosecutor..."

In addition to its role in receiving, processing, and monitoring asset declarations, the Authority may, where it detects a breach of integrity and transparency rules, either on its own initiative or upon notification, refer the matter to the competent Public Prosecutor after formally notifying the person concerned in cases of non-declaration or false declaration.

Article 10 of the same law also provides that: "The High Authority may, when it observes—on its own initiative, upon notification, or upon referral—the existence of a breach of integrity rules, take the following measures: ... refer the matter to the territorially competent Public Prosecutor in cases of non-declaration, after formal notice to the person concerned, or in cases of false declaration of assets..."

Moreover, in cases of proven illicit enrichment of a public official, the Authority may submit a report to the Public Prosecutor at the Court of Sidi M'hamed in order to take precautionary measures such as freezing bank transactions or seizing assets for a period of three (3) months pursuant to a judicial order issued by the President of the Court.

Consequently, it is evident from Law No. 22-08 that the relationship between the High Authority and the judicial authority has been reorganized, strengthening the Authority's role in initiating public prosecution through direct referral to the Public Prosecutor without passing through the Minister of Justice. This contrasts with Law No. 06-01, which required the National Authority to transmit the file to the Minister of Justice, who would then notify the Public Prosecutor.

This enhancement reinforces the institutional position of the High Authority and strengthens its oversight and monitoring functions in cases of breaches of integrity rules,

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particularly through its power to refer matters directly to the competent Public Prosecutor in cases of non-declaration after formal notice, or in cases of false asset declarations. Thus, when the High Authority identifies facts that may constitute a criminal offence, it directly notifies the Public Prosecutor to initiate proceedings, unlike Law No. 06-01, which required an intermediary step through the Minister of Justice.

**2-2: Issues Related to the Application of Sanctions for Breach of the Obligation of Asset Declaration.**

The legislator has established sanctions applicable to public officials or elected representatives who fail to comply with the obligation of asset declaration, whether principal or complementary penalties. However, certain categories subject to this obligation may, in practice, escape judicial prosecution and the enforcement of sanctions, due to existing legal gaps related to the monitoring of asset declarations and the initiation of public prosecution in cases involving criminally qualified acts.

**a) - Sanctions for Breach of the Obligation of Asset Declaration.**

In order to address breaches of the obligation of asset declaration, the legislator has introduced deterrent measures by establishing penalties for this offence, whether in cases of non-declaration or false declaration. These deterrent measures consist of two categories of sanctions: principal penalties and complementary penalties.

However, in order to align with comparative legislation, it is necessary for the Algerian legislator to reconsider the sanctions related to the breach of the obligation of asset declaration. This should not be limited to criminal penalties alone but should also include disciplinary sanctions such as dismissal from office and prohibition from holding public positions, as well as ineligibility to run for elections for a specified period and removal from membership in elected assemblies.

**- Principal Penalties.**

In the event of a breach of the obligation of asset declaration by a person subject to it, whether appointed or elected, and after the expiry of two (2) months following a formal reminder to comply with this obligation, Article 36 of Law No. 06-01, as amended and supplemented, provides for the applicable penalty in cases of non-declaration or false declaration. This penalty consists of imprisonment ranging from six (6) months to five (5) years and a fine ranging from 50,000 DZD to 500,000 DZD.

However, this penalty may be aggravated pursuant to Article 48 of the same law, reaching imprisonment from ten (10) to twenty (20) years, with the same fine as previously stated, when the offender holds a specific status, such as a judge, a senior state official, a public officer, a member of the High Authority for the Prevention and Combating of Corruption, a judicial police officer or agent, a person exercising certain judicial police powers, or a court registry official.

The offender may also benefit from the excuse of exemption from punishment provided under the Penal Code if they participate in the offence of breach of the obligation of asset declaration, provided that they report the offence to administrative or judicial authorities before the initiation of prosecution proceedings and assist in identifying its perpetrators. If the

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reporting occurs after the initiation of proceedings and contributes to the arrest of one or more perpetrators, the offender may benefit from a reduction of the penalty by half.

**- Complementary Penalties.**

In addition to the principal penalties mentioned above, complementary penalties may also be imposed alongside them, affecting the official who breaches the obligation of asset declaration, in accordance with Article 50 of Law No. 06-01. However, this article refers to the application of general provisions, as set out in Article 9 of the Penal Code, as amended by Law No. 21-14 of 28 December 2021<sup>18</sup>.

In addition to criminal sanctions, whether principal or complementary, certain offenders may also be subject to disciplinary sanctions that may reach dismissal<sup>19</sup>, as provided for in the Statute of the Judiciary, which considers failure to declare assets a serious misconduct warranting dismissal.

It is evident from the analysis of sanctions related to the breach of the obligation of asset declaration that the Algerian legislator has not fully aligned with certain comparative legal systems. For example, Moroccan legislation provides for strict and diversified sanctions, including disciplinary measures issued by the competent authority of the public official, civil servant, or local elected representative, as well as punitive sanctions issued by the judiciary.

Disciplinary sanctions applicable to public officials may include dismissal or termination of contract, while criminal sanctions may extend to prohibition from holding public office.

As for local elected representatives, a breach of the obligation of asset declaration may result in temporary suspension by decision of the Minister of the Interior until a dismissal decree is issued. Judicial sanctions may include disqualification from standing for elections for a period of six years, as well as removal from elected office in the event of taking up new electoral functions.

For members of Parliament and the House of Councillors, failure to comply with the obligation of asset declaration—whether through refusal, incomplete, or inaccurate declaration, and failure to rectify the situation after formal notice—leads to the loss of parliamentary membership by decision of the Constitutional Court. Furthermore, if acts constituting criminal offences are identified, the head of the authority refers the case to the judiciary. In cases where the breach occurs at the end of the mandate, the concerned person is notified to submit their declaration within 30 days, failing which the case is referred to judicial authorities.

Consequently, it is necessary for the Algerian legislator to reconsider the sanctions applicable to breaches of the obligation of asset declaration, by not limiting them to criminal penalties alone, but also introducing disciplinary sanctions such as dismissal, prohibition from holding public office, ineligibility to run for elections for a defined period, and removal from membership in elected assemblies.

Regrettably, the Algerian legislator has retreated from the provisions previously established under Ordinance No. 97-04 on asset declaration, which provided that failure by

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the concerned official or elected representative to comply with the declaration deadline would result in loss of membership or dismissal from office.

**Table N°4. Comparison of the sanctions for breach of the obligation of asset declaration in Algerian and Moroccan legislation**

|                                                                                                | <b>Criminal sanctions.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                | <b>Disciplinary sanctions.</b>                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                | <b>Principal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Complementary</b>                                                                           |                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>The sanction for breach of the obligation of asset declaration in Algeria.</b>              | Article 36 of Law No. 06-01, as amended and supplemented, which states: "Shall be punished with imprisonment from six (6) months to five (5) years and a fine ranging from 50,000 DZD to 500,000 DZD."                                                                                                                                                                                                                                                                                                                                                                                                                                             | Article 9 of the Penal Code, as amended and supplemented by Law No. 21-14 of 28 December 2021. | This is also provided for in the Organic Law on the Judiciary, which considers failure to declare assets or false declaration a serious misconduct resulting in dismissal. Article 62 of Organic Law No. 04-11.                                                                                                                                                                     |
|                                                                                                | Note: Unfortunately, there has been a regression from the sanctions provided under Ordinance No. 97-04 relating to asset declaration, particularly with regard to the implementation of procedures for the forfeiture of elected membership or dismissal from office, depending on the case.                                                                                                                                                                                                                                                                                                                                                       |                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>The sanction for breach of the obligation of asset declaration in Moroccan legislation.</b> | For public officials:<br>Prohibition from holding public office.<br>Financial fine.<br>In cases where acts constitute violations of criminal laws, the file is referred to the judicial authorities.<br>For members of the House of Representatives and the House of Councillors:<br>Referral of the file to the judicial authorities.<br>For local elected representatives:<br>Ineligibility to run for elections for a period of six (6) years.<br>Removal from elected status in the event of taking up new elected functions.<br>In cases where acts constitute violations of criminal laws, the file is referred to the judicial authorities. |                                                                                                | For public officials or agents: dismissal from office or termination of the contract.<br>For members of the House of Representatives and the House of Councillors: loss of parliamentary status by decision of the Constitutional Court.<br>For local elected representatives: temporary suspension by decision of the Minister of the Interior until a dismissal decree is issued. |

**Table prepared by the researcher**

**b) Issues Related to the Application of Sanctions on Certain Categories Subject to the Obligation of Asset Declaration: "The Necessity of Compliance with Ratified International Conventions"**

Referring to Law No. 06-01, as amended and supplemented, and other regulatory texts, certain categories enjoying immunity from judicial prosecution are nevertheless required to declare their assets. In the event of a breach of this obligation, they are subject to prosecution and the sanctions provided for under the Penal Code. However, at the same time, the highest legal norm in the State, namely the Constitution, grants privileges to certain categories that constitute an obstacle to judicial proceedings.

In addition, there are issues related to the impossibility of prosecuting individuals required to declare assets before the First President of the Supreme Court, due to the absence of any legal provision empowering the latter to initiate public prosecution in the event of a breach of the obligation of asset declaration.

Another obstacle to prosecution and the application of sanctions concerns the statute of limitations applicable to public prosecution in cases of breach of the obligation of asset declaration. Parliamentary immunity extends for five (5) years, whereas the statute of limitations for public prosecution in such cases is only three (3) years.

Therefore, domestic legislation must be aligned with ratified international conventions on anti-corruption, including the African Union Convention on Preventing and Combating Corruption adopted in Maputo on 11 July 2003<sup>20</sup>, the Arab Anti-Corruption Convention signed in Cairo on 8 September 2014<sup>21</sup>, and the United Nations Convention against Corruption adopted by the UN General Assembly on 31 October 2003<sup>22</sup>. These instruments establish a fundamental principle for preventing and combating corruption, namely the non-exclusion of categories enjoying immunity from prosecution. They also emphasize the need to establish long limitation periods for initiating criminal proceedings, or to extend or suspend limitation periods in cases where offenders evade prosecution.

**Conclusion:**

From this study, it is concluded that despite the importance of the asset declaration mechanism and its role in preventing corruption, this constitutionally established tool has not received adequate attention from the legislator. As a result, this constitutional obligation has become a mere formal procedure that fails to achieve its intended purpose, namely the prevention of corruption and the moralization of public life through enhanced transparency in public affairs management, the reduction of abuse of privileges, and the safeguarding of the integrity of public officials.

This is further confirmed by the figures published by the High Authority for Transparency, Prevention and Combating of Corruption in its 2022 report, which reveal the non-compliance of local elected representatives with the obligation to declare assets, whether under the previous mandate (2017–2021) or the current mandate (2021–2026). At the beginning of the current mandate, the rate of non-compliance reached 85.05%. Moreover, 50 wilayas recorded non-submission of asset declarations by members of their municipal and provincial assemblies, particularly in Algiers. In contrast, public officials occupying senior positions in central administrations and public institutions show a higher level of compliance with this obligation.

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Reviewing the constitutional, legislative, and regulatory framework governing asset declaration, it is observed that Algerian legislation has expanded the list of persons subject to this obligation and extended its scope to include all assets, whether located domestically or abroad. However, the legislator has not required the declaration of assets belonging to the spouse and adult children, which creates opportunities for concealing property under their names in order to evade prosecution for illicit enrichment. Other deficiencies also exist regarding the procedures, scope, and legal effects of asset declaration, particularly in the event of non-compliance.

There are also shortcomings concerning deadlines for asset declaration, especially renewal and final declarations, due to the absence of a legal timeframe for the final declaration. In addition, publication is limited to initial declarations, excluding renewal and final declarations, and does not cover all categories subject to the obligation.

Furthermore, the legislator has not provided any sanction for failure to publish asset declarations or for non-compliance with publication deadlines, whether in the Official Gazette or at the headquarters of wilayas or municipalities. The authority responsible for publication or its supervision has also not been clearly identified, which has led to declarations being published in the Official Gazette two years after submission instead of within the required two-month period.

These issues are compounded by procedural deficiencies in judicial prosecution in cases of breach of the obligation of asset declaration, particularly the difficulty of initiating public prosecution under Law No. 06-01. Law No. 22-08 has addressed some of these shortcomings by reorganizing the relationship between the High Authority and the judiciary, strengthening its power to initiate public prosecution through direct referral to the Public Prosecutor without passing through the Minister of Justice.

However, issues remain regarding the prosecution of certain categories enjoying constitutional immunity, as well as complications arising from statutes of limitation, which have not been addressed by Law No. 22-08. This makes it necessary to align domestic legislation with ratified international conventions.

Therefore, in order to address all gaps and shortcomings related to the asset declaration mechanism—as a constitutional safeguard for preventing corruption, promoting public ethics, and building a “New Algeria” based on transparency, integrity, and accountability—it is essential to introduce fundamental reforms to the legal framework governing its scope and procedures, as well as to resolve issues preventing the prosecution of certain categories due to immunity or limitation periods.

Finally, following the publication of the 2022 annual report of the High Authority for Transparency, Prevention and Combating of Corruption, which confirmed the non-compliance of local elected representatives with the obligation to declare assets at the beginning of the current mandate—despite reminders from the Ministry of the Interior—some elected officials who had failed to comply during the previous mandate are still serving in local councils today, and continue to ignore this obligation.

This raises a critical question: if Algeria seeks to establish a legal and institutional framework capable of preventing and combating corruption in order to ensure public integrity, how has the High Authority dealt with the significant number of non-declaration cases among local elected representatives, and has it referred the 23,166 members (85.05%) to the competent Public Prosecutor in accordance with Article 10 of Law No. 22-08?

Consequently, correcting the above-mentioned shortcomings requires a reconsideration of the legal framework governing asset declaration as a constitutional safeguard, through:

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- The necessity of imposing diversified and stricter sanctions in cases of breach, not limiting them to criminal penalties, but also introducing disciplinary sanctions such as dismissal, prohibition from holding public office, ineligibility for elections for a specified period, and removal from elected assemblies, as was previously provided under Ordinance No. 97-04, which the legislator has unfortunately abandoned.
- The need to address legal gaps concerning the scope of declaration by extending it to include not only the declarant and minor children but also the spouse and adult children.
- The necessity of regulating deadlines for initial, renewal, and final declarations, defining the concept of "significant increase in wealth," and organizing the publication and oversight process, while ensuring the publication obligation applies to all categories concerned by this constitutional duty.

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