

Criminal Protection Against Forgery and the Use of Forged Documents Under Law No. 24/02

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Submission date: 01/10/2025

Acceptance date: 20/12/2025

Publication date: 31/12/2025

Abstract:

Forgery crimes and the use of forged documents are among the most serious offenses against public trust and the integrity of legal transactions. For this reason, the Algerian legislator has granted them special protection under the Penal Code, reinforced by Law No. 24/02 of 18 February 2024. This protection is reflected in the substantive provisions, which define the crime, its material and moral elements, and its forms, namely the alteration of truth in official or private documents with the intent to cause harm or gain unlawful benefit, with harsher penalties for public officials. It also includes procedural provisions governing the initiation of public action by the Public Prosecutor or through civil claims, as well as technical investigations carried out by experts to examine documents, seals, and signatures. This framework aims to ensure general deterrence, protection of rights, and safeguard transactions from tampering and manipulation, thereby strengthening legal security and upholding the rule of law.

Keywords: *Forgery, Official Documents, General Deterrence, Investigation, Search*

Introduction:

Forgery and the use of forged documents are among the most serious forms of assault on public trust, which constitutes a fundamental pillar for the stability of transactions within society. These crimes directly undermine the integrity of documents and transactions, whether such documents are official, issued by public authorities, or private, drafted between individuals. The gravity of these acts lies not only in their alteration of the truth through material or moral means, but also in their legal, economic, and social repercussions that threaten legal and transactional security, and may even extend to affecting public order itself.

Forgery is, in itself, a social phenomenon inherently linked to the existence and development of human beings and societies. It has long occupied the attention of philosophers, sociologists, and criminal law scholars alike throughout the ages, who have devoted increasing attention to its study in

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order to derive laws and systems that achieve justice, foster security, and provide reassurance.¹

Accordingly, the crime of forgery is considered to fall within the scope of organized crime, as evidenced by the fact that it is committed, in its various forms, by organized groups employing advanced methods in its commission and dissemination, with the aim of violating the public trust that the legal system seeks to uphold.²

In general, forgery of documents is one of the most dangerous crimes, requiring special attention in its treatment due to the diversity and multiplicity of forgery techniques, as well as its similarity to other types of crimes. In this regard, the element of harm is essential for the establishment of this type of offense.

From another perspective, forgery is considered a modern crime, as it emerged and evolved alongside the development of writing, documentation systems, and the appearance of both official and private documents. This evolution necessitated the establishment of binding legal rules and provisions to protect such documents from tampering with their content, to preserve their credibility, ensure their safe circulation, and reinforce confidence in their content and meaning.

It is worth noting that among the causes of the spread of this crime are ignorance of the law and the deliberate violation by offenders of the rights of individuals and society. Moreover, not all those who commit forgery are aware that their actions constitute criminal offenses. Additional factors include negligence in drafting papers and documents, as well as the failure to observe the formal requirements for preparing both private and official documents, whether on the part of the victims or the offenders themselves³.

Forgery, in its various forms, may take traditional shapes through the alteration or distortion of material data in documents, or more advanced forms through the use of digital media and technical software to produce forged documents or data whose authenticity is difficult to verify. This renders the crime more complex and increases the difficulty of its detection, particularly in light of the evolution of communication methods and the widespread proliferation of modern information technologies. Furthermore, the crime of using a forged document constitutes a serious complement to forgery, as it grants the forged instrument actual operative force in practice by presenting it or relying on it to achieve an unlawful purpose, thereby amplifying the scope of the harm caused.

The Algerian legislator has recognized the seriousness of these crimes and their negative impact on the stability of transactions. Consequently, it

has developed the legal framework to confront them through the enactment of Law No. 24-02, which introduced substantial amendments to the Penal Code. These amendments did not only tighten penalties, but also expanded the scope of criminalization to adapt to technological developments, adding new forms of forgery previously uncovered by earlier provisions, as well as establishing stricter mechanisms for detecting these crimes and prosecuting their perpetrators.

The importance of these amendments lies in their responsiveness to global transformations in the field of organized crime and cybercrime, in alignment with Algeria's international commitments to combat forgery and protect public trust, thereby enhancing the effectiveness of the criminal policy in addressing this growing phenomenon.

Problem Statement

Despite the multiplicity of international and national legal references concerning environmental protection, and the notable progress made in establishing legislative and institutional mechanisms to combat environmental crimes, the effectiveness of such protection remains questionable. This is particularly evident given the gap between legal provisions and their practical enforcement. Legislations often face challenges related to weak enforcement mechanisms, insufficient coordination between relevant authorities, and the difficulty of proving environmental harm before courts. Moreover, a fundamental issue arises concerning the adequacy of national laws with international protection standards, especially in the context of globalization and the cross-border nature of environmental domains.

Accordingly, this study poses a central question: What constitutes the specific criminal protection against forgery and the use of forged documents under Law No. 24/02?

Significance of the Topic

The importance of this topic stems from its direct impact on the very core of legal trust upon which societal transactions are founded. The seriousness of these crimes is further amplified by the spread of digital technologies and the growth of cybercrime. Research into the criminal protection against forgery holds practical significance in clarifying the scope of criminalization and punishment, as well as assessing the impact of recent legislative amendments on criminal policy. This, in turn, contributes to supporting judicial practice and enhancing mechanisms for detection and prevention.

Methodology

This study adopts an analytical-comparative approach by examining the relevant national legal provisions, particularly those contained in Law No. 24-02, and comparing them with comparative legislations and related international conventions. The descriptive method is also employed to present the fundamental concepts of forgery and its forms, while the critical method is applied to evaluate the effectiveness of legislative policy in limiting such crimes.

This study is divided into two main sections:

Section One: The substantive provisions relating to forgery crimes.

Section Two: The procedural provisions relating to forgery and the use of forged documents.

Section One:

The Substantive Provisions Relating to Forgery Crimes

Before addressing the substantive provisions of the crime of forgery, it is appropriate to present a comprehensive definition of forgery in official documents.

Forgery is defined as a material act or a form of falsehood committed by individuals with the aim of altering the truth in official or private documents, by means specified under the law. Such conduct is capable of causing harm to the rights and legal positions of one or more of the parties to the deed or document subject to the allegation of forgery⁴

Firstly: Definition of the Crime of Forgery in Official Documents and Its Forms
Forgery refers to the alteration of truth in a document, or the obliteration of truth, by any means whatsoever, whether by speech or by writing. It may also be defined as the alteration of a document with the intent to cause harm to another.

Forgery is a material act and a form of falsehood committed by a person whose criminal conduct arises from a conscious and culpable will, reflecting the intent to commit the offense. The penalty for such conduct varies according to the extent of the harm and the criminal intent of the perpetrator.

Forgery can also be understood as the embellishment of something and presenting it in a form different from its true nature, so as to mislead the person who hears or sees it into believing it to be other than what it truly is; in essence, it is the act of disguising falsehood in a manner that creates the illusion of truth.⁵

Linguistic Definition:

In the Arabic language, al-zūr means "falsehood" or "lying."

Al-tazwīr refers to embellishing or falsifying speech, and it may occur through words or actions. Lying, however, exists only in the realm of thoughts and beliefs. Ibn Fāris stated: "The letters *zāy*, *wāw*, and *rā'* form a root that denotes deviation and turning away [from the truth]." Hence, *zūr* (falsehood) is so called because it deviates from the path of truth.⁶

Terminological Definition:

*It has been said that forgery (tazwīr) is: Any statement or act intended to adorn falsehood so that it appears to be truth, whether that is through words—such as perjury—or through actions—such as imitating handwriting or currency—in order to establish falsehood."*⁷

The legal provisions enacted by the legislator regarding forgery contained no explicit definition, leaving the matter to the interpretation of legal scholars and the judiciary.

*Following the approach of the old French Penal Code of 1810, the French jurist Garçon defined forgery as "the alteration of the truth with the intent to defraud, in a document, by one of the methods specified by law, in such a manner as to cause harm."*⁸

*Similarly, the French jurist Garraud defined forgery as "the alteration of the truth with the intent to defraud, in a document, affecting something for which the document was intended to serve as proof, and in such a manner as to cause harm."*⁹

*Most commentaries on criminal law have been influenced by these two definitions. For the crime of forgery to be constituted, three essential elements must be present: alteration of the truth, criminal intent, and the possibility of causing harm."*¹⁰

*According to the ruling of the Supreme Court dated 29 November 2006, Case No. 227350, File No. 339900, and the ruling dated 21 December 1999, the existence of harm is a necessary requirement."*¹¹

It states: "Forgery is any alteration or distortion of the truth in a document or record that may cause harm to others, and is intended to establish a right or a fact, thereby producing legal consequences." Accordingly, the essential elements for the offence of forgery in documents are:

- *Alteration of the truth.*
- *Intent to defraud.*
- *The existence of harm.*

*Guan defined forgery as: "Forgery, as a criminal offence, is the falsification of the truth in a manner that may cause harm, committed in a document by one of the means set out in the law."*¹²

Secondly: Forms of the Crime of Forgery

Forgery in documents is considered among the most serious offenses that undermine the trust that must exist in official or private documents. The seriousness of this crime is amplified by the role of writing in modern societies, as it serves as a means of proof for both individuals and the state. Individuals rely on written instruments to establish their relationships and transactions, and such trust can only be maintained if the documents faithfully reflect the truth — which is the essence of writing.

If the essence of writing is falsified, people will reject it, resulting in the destabilization of transactions, the undermining of rights, and the obstruction of state functions.

On this basis, forgery in documents is among the gravest crimes against the trust required in both official and private documents, since written instruments guarantee the stability and protection of rights, and the state exercises its powers through written records.

The legislator has classified forgery in official documents as a felony and in private documents as a misdemeanor, prescribing penalties for both. According to the general rules, the existence of a crime requires the commission of a specific criminal act punishable by law, accompanied by a harmful result stemming from such conduct.

As stipulated in Article 01 of the Penal Code: “No offense, penalty, or security measure may be imposed without a law.”¹³

The Crime of Forgery in Official Documents

Forgery is defined as altering the truth in currency, financial papers, or securities that were originally genuine and valid. Among the forms of forgery are changing marks, drawings, or numbers on currency or financial papers by the forger. It is noted that forgery applies only to paper currency, securities, official documents, private documents, and commercial instruments.

From this definition, it appears that forgery is any alteration of the truth in a document, whether it involves:

- Financial papers or securities, by changing or imitating signatures or dates.¹⁴*

*Thus, forgery represents an obliteration of the truth, by whatever means—whether verbal or written—with the intent of altering reality for the purpose of securing a benefit for the forger and causing harm to others. Forgery crimes are addressed in Chapter Seven under the title "**Forgery Crimes**", which the legislator divided into four categories:*

- 1. Crimes of forging currency or related instruments,*

2. Crimes of forging state seals, stamps, imprints, and marks,
3. Crimes of forgery in documents,
4. The crime of perjury and similar offences.

These are provided for in Articles 197 to 241 of the Algerian Penal Code.

The legislator did not classify forgery in documents as a single offence but rather distinguished between its various forms, making each type a separate offence. Accordingly, it is divided into three categories:

The legislator has not classified forgery in documents as a single offence; rather, it has distinguished between its types and designated each as a distinct crime. Forgery is therefore divided into three categories:

First category: Forgery in public or official documents, as regulated in Articles 214 to 218.

Second category: Forgery in private, commercial, and banking documents, as regulated in Articles 219 to 220 and 221.

Third category: Forgery in certain administrative documents and certificates, as regulated in Articles 222 to 229.

Thus, forgery is a material act and a form of falsehood committed by a person with the intent to alter the truth in a public or official document or instrument by one of the methods prescribed by law, in a manner likely to cause harm to the rights or legal positions of one or more parties concerned with the contested document.

Accordingly, a forger is a person who carries out the material elements of the offence of forgery by affixing a signature, adding text not contained in the original, or removing what was originally part of it.

Forgery is also any alteration likely to cause harm, whether such harm is immediate or merely potential.

Thirdly: Characteristics of the Crime of Forgery

The crime of forgery has several characteristics distinguishing it from other offences, due to its infringement on public trust and its impact on administrative and legal dealings between individuals. These characteristics include:

1. An offence of an international nature:

What primarily distinguishes the crime of forgery from other crimes is its international character, which is due to the rapid communications between countries worldwide and the economic, social, and cultural exchanges among them. With the swift dissemination of scientific information globally in the modern era, it has become necessary for the competent authorities in each state to give due attention to this offence, to

combat and punish it, and to pursue its perpetrators, with the aim of ensuring security and stability in the country¹⁵

2- Crime of an Economic Nature:

*The crime of forgery significantly affects the national economy, as evidenced by the economic crisis and the loss of confidence in transactions, whether between individuals domestically or between states internationally. This results in the squandering of financial resources and the national income. Moreover, it is considered a contributory crime, as it is often committed with the knowledge and assistance of organized gangs, requiring the involvement of a large number of individuals possessing technical and scientific expertise.*¹⁶

3- Crime of a Scientific and Technical Nature

*Forgery relies on technical knowledge, specialized skills, and the technology brought about by civilizational progress. Committing this crime requires mobilizing various technical, artistic, and industrial sciences, and necessitates the involvement of individuals with specialized technical expertise. It also involves a complex intellectual process. The main reason for the alarming and striking increase in this type of crime is the negative exploitation of the technological revolution, particularly modern printing methods and computer devices.*¹⁷

*Forgery is the method that leaves a tangible physical trace of tampering with a document. This trace may be perceptible to the naked eye or may require technical expertise to be detected, through examination of the document and the identification of its physical signs and manifestations. Such manifestations may include erasure, obliteration, imitation of another person's handwriting, attributing handwriting or a signature to someone other than its author, or fabricating an entire document.*¹⁸

The material element of the crime of forgery in official documents consists of the alteration of truth with the intent to cause harm. In this context, we will address the definition of a document and its types.

Second Section:

Procedural Provisions in Forgery and Use of Forged Documents

Forgery of official documents is a serious crime that disrupts legal and administrative systems. The procedural provisions surrounding such offenses ensure that proper investigations and trials are conducted. This section outlines the key steps taken by the Public Prosecution, investigating judges, and the Indictment Chamber in handling forgery cases. These procedures aim to protect the integrity of the legal process while safeguarding the rights of all parties involved.

Firstly: Direct Summons and Notification

The public prosecution, as the legal means for the State to reclaim its right to punishment, goes through a set of procedures that differ in nature and scope. These are preceded by preliminary or investigative measures aimed at searching for and investigating crimes of forgery in official documents, detecting them, and identifying the perpetrators. These measures constitute the prelude to the judicial stages: the preliminary investigation stage and the trial stage.

The primary jurisdiction of the Public Prosecution is to initiate public action and to exercise it before the courts, as it represents the State and acts on behalf of society in seeking the right to punishment.¹⁹

The Public Prosecution is the principal prosecuting authority in Algerian legislation; it initiates the case, conducts it, and follows its progress before the various courts.

Article 2 of the Judicial Basic Law considers the Public Prosecution an organ composed of a group of judges. It states: "The judiciary comprises judges of adjudication and prosecution at the Supreme Court, the judicial councils, and the courts, as well as judges working in the central administration of the Ministry of Justice."

The Public Prosecutor initiates public action based on the investigations of the judicial police, which end in reports sent to the prosecution by mail or through direct presentation.²⁰

The Public Prosecutor also initiates public action based on citizens' complaints, which he examines. All parties are heard by the judicial police, and the proceedings conclude with reports that the Public Prosecutor acts upon.

Once the Public Prosecutor determines that the reported facts constitute an offense or misdemeanor, in cases other than in flagrante delicto, and are free from any procedural impediment, and that they can be attributed to their perpetrators, and when no investigative proceedings are necessary, he refers the case to the Court of Misdemeanors or the Court of Infractions by means of direct summons (also called a notice to appear). This is a summons to attend a trial session, which must include a description of the facts, their legal classification, the legal provision that criminalizes and penalizes them, and the designation of the court hearing the case, along with the date, courtroom, and time of the session. It must also inform the defendant of his right to be assisted by a lawyer, and it is delivered through a judicial officer.²¹

The Public Prosecution may dispense with the summons and replace it with a notification, which has its own specific method of delivery. The notification is resorted to in certain contraventions and in many misdemeanors. It is a procedure undertaken with the aim of informing the accused of the date of the hearing at which they will be tried, as well as the address of the court vested with jurisdiction to adjudicate the charge brought against them.

Secondly: Opening the Investigation:

This is the procedure by which the Public Prosecution initiates the public action before the investigating judiciary through a decision it issues in its capacity as the prosecuting authority. By virtue of this decision, the Public Prosecutor, either on his own initiative or pursuant to an order from one of his hierarchical superiors, requests the investigating judge of the same court to conduct an investigation against a specific person or an unidentified person in relation to facts which still require evidence to determine the extent of their proof and the degree of responsibility therefor.

This is substantiated by the documents attached, such as the record consolidating the preliminary inquiries, the complaint, or the report. It is, therefore, an essential procedure addressed by the Public Prosecutor in the form of a written and dated request to the investigating judge, without which the latter is not permitted to conduct an investigation, in accordance with Article 167 of the Code of Criminal Procedure.²²

Thirdly: Initiating Public Action by the Civil Party

Before addressing the mechanisms of civil claims, it is first necessary to provide a brief definition of a civil claim:

• Definition of a Civil Claim

A civil claim is the initiation of a civil lawsuit by the injured party, requesting compensation for the harm caused by a crime before the criminal court. In such a case, the court is obliged to consider both the criminal and civil actions and render a judgment on both together.

The admissibility of a civil claim before the investigating judge is subject to three conditions, all of which must be satisfied. They may be summarized as follows:

First: *The exercise of the right to bring a civil claim must be initiated by the person harmed by the crime. This is confirmed by the express wording of Article 1, paragraph 2, of the Algerian Code of Criminal Procedure, which defines the holder of the right to initiate direct public action by stating:*

"The injured party may also initiate public action in accordance with the conditions set out in this Code."

Similarly, Article 72 of the same Code provides:

"Any person claiming to have been harmed by a crime may bring a civil claim by filing a complaint before the competent investigating judge."

The Algerian legislator, like other legislators, acted correctly in using the term injured party (al-mudarrūr) instead of victim (al-majnī 'alayh), since it is possible for a person to suffer harm from a crime without being the direct victim. Such a person would therefore have a direct interest in initiating public action.

In this regard, Dr. Suleiman Barash states:

"After the initiation of public action, the connection of the injured party to it ceases, and his role becomes confined to the civil action."

This is what led the Algerian legislator, when defining the conditions of a civil claim, to confer the designation civil claimant (al-mudda'ī al-madantī) upon the person entitled to initiate the action directly (Article 75 of the Code of Criminal Procedure).

Second: *For the exercise of a civil claim, the public action must be admissible. This requirement is logical, because the general rule is that the injured party pursues the civil claim at the same time as the public action is initiated—that is, the civil action is what drives and triggers the public action. Consequently, there is no place for a civil claim if the public action itself is inadmissible.*

Third: *The civil action must also be admissible. The mechanism of a civil claim consists in bringing a civil lawsuit for damages, which results in the initiation of public action—either one neglected by the Public Prosecution or initiated simultaneously.*

For this mechanism to operate, the civil action must, as a matter of course, be admissible. Thus, the judge must first verify that the civil action is admissible, although this does not require it to be substantively valid on its merits. The admissibility of the civil action presupposes that it has been brought before the jurisdiction of the criminal court.

It follows that the inadmissibility of the civil action constitutes an obstacle to the civil claim mechanism and, consequently, to the initiation of public action. The civil action is inadmissible in the following cases:

- If the summons to appear is invalid;*
- If the law prescribes a different procedure;*
- If the criminal court lacks jurisdiction over the matter.*

In addition to the conditions set by law for initiating public action by the civil party, there are procedural steps that must be fulfilled to exercise the right of civil claim, namely:

- 1. **Summoning the accused to appear directly** before the competent court and submitting a complaint to the investigating judge (Article 72 of the Code of Criminal Procedure).*
- 2. The investigating judge forwards the complaint to the Public Prosecutor within a set number of days, together with his requests (Article 73, etc.).*
- 3. The summons to appear is thus the procedural means of the action, and the person entitled to a civil claim resorts to the criminal court as the only available avenue in cases of misdemeanors, contraventions, and felonies (Article 73/3 of the Code of Criminal Procedure).*
- 4. If the investigating judge accepts the complaint and the civil party has not obtained legal aid, they must deposit the court costs in advance with the court registry; otherwise, the claim will be inadmissible. The amount is determined by an order from the investigating judge (Article 175).*
- 5. The civil party must designate an elected domicile by declaration to the investigating judge, so that they can be served with the procedural documents required to be notified to them in accordance with the legal provisions.*

Fourth: The Mandatory Investigation in the Crime of Forgery in Official Documents

Investigation procedures are a set of actions that the investigating authority deems necessary to uncover the truth regarding the act of forgery in official documents, to either establish the charge against the accused or dismiss it. The investigation stage is considered one of the most crucial phases in criminal proceedings. Given that forgery in official documents constitutes a felony, the investigation must be conducted in two levels: the first being before the Investigating Judge, and the second before the Indictment Chamber.

• The Investigating Judge

By examining the provisions of Article 68 of the Algerian Code of Criminal Procedure, it is clear that the legislator has vested the investigating judge with the authority to take any measures deemed necessary to uncover the truth, such as interrogating the accused, hearing witnesses and experts, and other related competences.

The investigating judge enjoys broad powers within the framework of judicial authority, including search and inquiry functions that he personally carries out during the investigation. He also has the right to

issue orders, such as arrest warrants and detention orders. If the investigating judge determines that the acts attributed to the accused only constitute a misdemeanor of forgery in private, commercial, or banking documents, the legal classification shall be adjusted accordingly.²³

The procedures of the investigating judge are as follows:

In accordance with the law, the investigating judge shall take all investigative measures deemed necessary to uncover the truth, by examining the elements of the accusation and the evidence for or against it.

Travel and Inspection (Déplacement et constatation)

Article 79 of the Code of Criminal Procedure stipulates that the investigating judge may travel to the locations where crimes occurred to carry out all necessary operations or to conduct searches.

He is competent to visit the homes of the accused or suspects to search them in order to obtain evidence related to the crime. However, the investigating judge must exercise his powers in a manner consistent with the crime of forgery in official and administrative documents. In most cases, the nature of such crimes does not require traveling to the crime scene for on-site inspection. Instead, it is necessary to present the forged document to an expert to determine whether it is forged, and to identify the areas of alteration, since the expert possesses the tools necessary to detect such forgery and its location.

Search (Perquisition)

Articles 79 to 81 of the Code of Criminal Procedure authorize the investigating judge to visit the homes of the accused, suspects, or persons in possession of items related to the crime, in order to search them and seize the tools used in its commission. The concept of a “dwelling” is no longer limited to the peaceful residence alone, but has expanded to include its appurtenances, such as the courtyard, garden, basement, garage, rooftop, furnished apartments, company headquarters, commercial and industrial premises, factories, corporate offices, and professional equipment.

As for personal searches, the Code of Criminal Procedure does not regulate them specifically, so they are subject to general rules. Accordingly, the investigating judge may legally search any person charged by the Public Prosecution in its opening request or in a supplementary request, in connection with a felony or misdemeanor of forgery in an official or administrative document. He may also search any person he himself charges. If the search is conducted at the home of the

accused or of someone suspected of possessing items related to the crime, the investigating judge—pursuant to Article 82 of the Code of Criminal Procedure—must carry out the search in the presence of the accused or the homeowner. If their presence is not possible, if they have appointed no representative, or if they are fugitives, the judge must summon two witnesses and carry out the search in their presence. The search must be conducted during the hours prescribed by law; however, if the facts constitute a felony of forgery in an official or administrative document, the judge may, exceptionally, conduct the search at the accused's home at night, provided the Public Prosecutor is present.

Fifth: The Indictment Chamber (La chambre d'accusation)

The Indictment Chamber is a higher tier of investigation in criminal cases, including related misdemeanors and infractions. It must, by law, be consulted in any investigation that concludes with sufficient evidence against a person for committing the felony of forgery in official and administrative documents, and it alone has the authority to decide on the matter

In such an investigation, and in order to ascertain the validity of the warrant held by the investigating judge, the Indictment Chamber has full authority to examine the entire case file. It possesses all the powers of investigation, and if it finds that the file contains all the necessary elements, it may then deliberate on the evidence and indications pointing to the accused perpetrator of forgery.

Mechanism for overseeing the judge's actions:

The principle of trial in two degrees is not limited to adjudicating bodies; it also extends to investigative bodies. From this principle, the Indictment Chamber derives its powers as a second-degree investigative judiciary entrusted with exercising effective oversight over the actions of the investigating judge, whether in his capacity as investigator or as judge.

The main purpose behind the creation of the Indictment Chamber within the judicial council and its role in monitoring the legality of prosecutions and all investigative procedures is that the Algerian legislator granted this chamber broad powers to assess the legality and validity of the procedures submitted to it exclusively (Article 191 of the Algerian Code of Criminal Procedure). However, the question that arises sharply is: who is legally entitled to request the annulment before the Indictment Chamber during the course of an investigation before the investigating judge?

As for the decision of the Indictment Chamber declaring an investigative act null and void during the course of the investigation, it is

considered a purely investigative procedure. It does not bring the investigative process to a definitive end, but rather highlights the role of this body as an investigative judiciary overseeing the acts of the investigating judge, particularly their formal validity.

Furthermore, the continuation of the judicial investigation leads to the issuance of orders by the investigating judge, which are, in fact, not final orders — meaning they are subject to appeal. The only available remedy against such orders is appeal, except for the order to transmit the case file in felony matters (Article 166 of the Algerian Code of Criminal Procedure).

Decisions Issued by the Indictment Chamber

After the conclusion of the judicial investigation and the issuance by the investigating judge of an order to transmit the case documents to the Public Prosecutor, the file is referred to the Indictment Chamber, which proceeds to examine it in order to render a judicial decision. This decision may take one of two forms: a decision of no grounds for prosecution or a decision to refer the case to the competent court.

Decision of No Grounds for Prosecution:

This decision is issued by the Indictment Chamber pursuant to Article 195 of the Code of Criminal Procedure if it finds that the facts do not constitute a felony, misdemeanor, or petty offense, that there is insufficient evidence to convict the accused, or that the perpetrator remains unknown. The legal requirements for the validity of a decision of no grounds for prosecution include the following:

- *The decision must not contain the accused's full identity.*
- *Where the investigating authority finds no grounds to proceed with the investigation, it may order that there are no grounds to institute proceedings, in accordance with Articles 163 and 185 of the Code of Criminal Procedure.²⁴*

*The grounds for such a decision may be **legal** or **factual**:*

- ***Legal grounds:*** *These exist when the investigating authority considers that the acts committed do not constitute an offense punishable under Algerian law, in accordance with the principle of legality. They also arise where there is a cause for extinguishing the public action, whether general or specific, or where a procedural prerequisite to prosecution is lacking (such as a complaint, authorization, or request), or where a cause of non-liability exists that negates the accused's awareness or intent.*
- ***Factual grounds:*** *These include insufficient evidence or the inability to identify the perpetrator. Where the investigating judge*

concludes that there is no sufficient evidence linking the accused to the act, he must carefully review and assess the evidence before issuing such a decision.

Decision to Refer to the Competent Court:

The Indictment Chamber issues a decision to refer the case to the competent judicial body if it finds that the file is complete and the charge is well-founded, and that the accused can be brought to trial. In reviewing Articles 196 and 197 of the Code of Criminal Procedure, it appears that the Indictment Chamber may refer the case to the Court of Misdemeanors, the Court of Petty Offenses, or the Court of First Instance for Felonies, as appropriate.

*For a referral order issued by the Indictment Chamber to be valid, it must contain certain information as required by Articles 198 and 199 of the Code of Criminal Procedure. These requirements are divided into **formal** and **substantive** conditions:*

1. Formal conditions:

- Reference to the names and surnames of the members of the Indictment Chamber who participated in issuing the decision.*
- Identification of the parties, in accordance with Article 182 of the Code, and acknowledgment of the filing of memoranda as per Article 199.*
- Reading of the rapporteur's report on the case, which consists of a summary of the facts, circumstances, and procedural history.*

2. Substantive conditions:

- The decision must specify the type of offense and the evidence against the accused, set out the precise legal elements of the offense, and provide the correct legal characterization of the facts.*
- It must cite the legal provisions prescribing the penalty for the act, and explain how the act was attributed to the accused or why the charge was dismissed.*
- The attribution or dismissal of the charge must be based on sufficient evidence of the offense's occurrence and its commission by the accused.*

It is noteworthy that, until recently, after issuing a decision to refer the case to the Court of First Instance for Felonies, the Indictment Chamber would also issue a warrant for the physical arrest of the accused; this practice has been abolished by the latest amendment.

Search and Seizure:

Articles 79 to 81 of the Code of Criminal Procedure empower the investigating judge to go to the homes of accused persons, suspects, or others in possession of items connected to the offense, in order to search for and seize instruments used in its commission. The concept of a “dwelling” is no longer limited to a quiet residential home, but now extends to its appurtenances, such as courtyards, gardens, cellars, garages, rooftops, furnished apartments, company premises, commercial and industrial establishments, factories, corporate offices, and professional equipment.

As for personal searches, the Code of Criminal Procedure does not explicitly regulate them; thus, they fall under the general rules. Accordingly, the investigating judge may legally search any person charged by the Public Prosecutor in an initial or supplementary indictment with committing a felony or misdemeanor of forgery in an official or administrative document, or any person charged directly by the investigating judge²⁵.

If the search is to be conducted in the home of the accused or a person suspected of possessing items related to the forgery offense, Article 82 requires the investigating judge to carry it out in the presence of the accused or the homeowner. If this is impossible because the person is absent or in hiding, the judge must summon two witnesses and conduct the search in their presence. Searches must be conducted within the times prescribed by law; however, if the facts constitute a felony of forgery in an official or administrative document, the judge may, with the presence of the Public Prosecutor, conduct a nighttime search of the accused’s home.

As for searches conducted in the offices of lawyers, doctors, and notaries, they are subject to special procedural rules.

Regarding searches conducted in the offices of lawyers, doctors, and notaries, the following rules apply:

- When the search is carried out in a lawyer’s office or even in their home, the investigating judge conducts the search in the presence of the head of the Bar Association or one of their representatives, who guides the judge regarding the documents and the nature of the documents held by the lawyer. The same rules apply to searches at the offices of notaries; before beginning the search, the judge must be accompanied by one of the notaries who represent the profession.²⁶*

- *In the case of searches at a doctor's office or a medical institution such as hospitals or clinics, the investigating judge must be accompanied by a member of the medical association and usually also by a medical expert to assist him in identifying the documents relevant to the investigation.*²⁷

Conclusion

At the conclusion of this research, it can be said that the crime of forgery in official documents, like other crimes, is among the most serious and complex offenses. It cannot be established except when its essential elements are present, which are represented by the material element — the forged document and the alteration of truth in it — and the moral element, which includes general criminal intent as well as specific criminal intent. It also involves distinguishing the status of the perpetrator, whether a public official or a non-public official, in addition to the various forms of forgery and the penalties prescribed for this crime.

It is worth noting that the prosecution of this crime does not have any particular specificity that subjects it to special rules. Rather, it follows the rules established in the Code of Criminal Procedure, starting from the prosecution phase and ending with the issuance of a final judgment, passing through the preliminary investigation phase conducted by the judicial police within the limits defined by law, then the primary investigation phase before the investigating judge or the indictment chamber. The classification of the crime depends on this phase: if the forgery of official documents is classified as a misdemeanor, the investigating judge conducts the investigation without the need for a second-degree investigation. However, if it is classified as a felony, the indictment chamber acts as a higher authority and second-degree investigative body.

Finally, the conclusive investigation or trial phase follows, where the evidence is examined and a final judgment is issued, whether by a criminal court or a misdemeanor court.

The study's findings:

Throughout this study, several ~~observations have emerged~~, including:

- *The crime of forgery in official documents is a momentary crime that requires the presence of all its constitutive elements.*
- *Forgery crimes are among the most technically complex crimes recently and primarily affect public trust and, secondarily, public security.*

- *Proving this crime requires expert examination to establish the forger's act.*
- *This crime often opens the door to other crimes such as smuggling, embezzlement, etc.*
- *Although the Algerian legislator has adopted a strict approach to combating forgery, effective methods for combating and preventing forgery crimes remain primarily confined to the provisions of the Penal Code.*

Accordingly, based on the results reached to limit this crime, we propose the following recommendations:

- *Strengthening the Algerian state's forensic police laboratories with the latest techniques and devices specialized in detecting forgery.*
- *Establishing the necessary preventive measures to avoid the occurrence of this type of crime.*
- *Emphasizing the need to tighten penalties prescribed by the Algerian legislator, including increasing punishments and financial fines.*

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