

Criminal policy to combat corruption crimes in public procurement

السياسة الجنائية لمكافحة جرائم الفساد في الصفقات العمومية



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Abstract:

In the context of financial and trade openness, public contracts are regarded as a strategic tool for carrying out developmental programs and attaining comprehensive development. They have, also developed into a breeding ground for corruption in all of its manifestations. Given their variety of forms, resurgent patterns, and their quick expansion at the national and regional levels, these crimes have taken on a new dimension in the wake of worldwide scientific and technological advancements, which has had a detrimental impact on the evolution of methods of committing them.

it is now essential for lawmakers to use their legislative authority to combat these crimes. Establishing a set of legal mechanisms aimed at improving transparency, integrity, and fair competition, as well as putting in place a variety of punitive measures, whether criminal or punitive, can curb their spread. This can be accomplished by adopting organizational, procedural, and legal measures .

key words: Public contracts; Corruption crimes; Legal mechanisms; Punitive measures.

الملخص:

تعتبر الصفقات العمومية اداة استراتيجية لتجسيد البرامج التنموية وتحقيق التنمية الشاملة في ظل الانفتاح المالي والتجاري ، لكنها اصبحت في نفس الوقت تشكل مجالا خصبا لتفشي ظاهرة الفساد بصورها المختلفة، وقد اضحت هذه الجرائم تتخذ بعدا جديدا في ظل التطور العلمي والتكنولوجي الذي يشهده العالم مما انعكس سلبا على تطور اساليب ووسائل ارتكابها، بالنظر الى تعدد صورها وانماطها المتجددة وسرعة تناميها على الاصعدة الوطنية والاقليمية.

استوجب الامر تدخل المشرع بالأداة التشريعية لوضع منظومة قانونية شاملة لمكافحة والوقاية منه، عن طريق اتخاذ جملة من التدابير اللازمة، قانونية وتنظيمية واجرائية، يرى انها كفيلة للحد من انتشارها، عن طريق ارساء مجموعة من الاليات القانونية تهدف الى تعزيز الشفافية، والنزاهة، والمنافسة المشروعة، وكذا اتخاذ جملة من التدابير الردعية، تجريميه كانت ام عقابية.

الكلمات المفتاحية: الصفقات العمومية؛ جرائم الفساد؛ الاليات القانونية؛ التدابير الردعية.

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Introduction:

The substantial amount of public cash allotted to the sector of public contracts makes it an ideal environment for corruption to flourish. In order to improve openness and credibility in these activities, Algerian lawmakers have attempted to create customized legislation to govern the procedures involved in the creation of public contracts. The international community in general and emerging nations in particular acknowledge corruption as a major scourge. When an employee takes a bribe or extortion to facilitate a contract or procedure, it is considered the misuse of public power or position for personal benefit.¹

Corruption also happens when an organization's management turns corrupt, which means that a network of corruption controls the whole operation, with one component depending on and benefiting from the others.²

Since it wasn't used before 2006 and wasn't made a crime under the Penal Code, the term "corruption" is relatively new in relation to Algerian lawmakers. However, Algeria has to bring its domestic laws into compliance with the United Nations Convention against Corruption after ratifying it in 2004 with Presidential Decree No. 04/128, issued April 19, 2004. Therefore, on February 20, 2006, it was one of the first nations to enact Law No. 06-01 on the Prevention and Combat of Corruption (PCC), which made corruption in all of its manifestations illegal.³

Given that the aforementioned statute lacked a descriptive, philosophical, or economic definition of corruption, it is clear that the Algerian legislator used the same methodology as the UN Convention. Instead, it concentrated on discussing its forms and expressions, as supported by the legislation on the Prevention and Combat of Corruption's Article 02, which reads, "Corruption includes all crimes stipulated in Chapter Four of this law." After examining these crimes, they may be divided into the following categories: crimes involving public contracts, crimes involving bribery and associated offenses,

1-M. Sadiq, *Administrative Corruption in the Arab World: Its Concept and Various Dimensions*, Cairo, Egypt: Arab Group for Training and Publishing, 2004, p. 16.

2- A. a.-H. al-Amiri and A. F. Talib, *Strategy for Combating Administrative and Financial Corruption: An Integrative Approach*, Amman, Jordan: Dar Al-Ayyam for Publishing and Distribution, 2014, p. 30.

3- Law No. 06-01, *The Prevention and Fight Against Corruption*, Algeria: Government of Algeria, February 20, 2006.

embezzlement and property damage, and crimes involving the concealment of corruption.¹

The legislature created a criminal policy that addresses criminalization and punishment, as well as processes, mechanisms, and tactics, in an effort to combat corruption offenses in all of their manifestations and stop corruption from spreading. The substantial role that public contracts play in promoting development highlights the topic's significance. In order to eradicate corruption offenses that have started to threaten the country's economy, our study intends to outline the criminal framework for safeguarding public contracts through the punitive mechanisms put in place by the legislator.

Study Problem:

The following key question might be used to formulate the study's problem:

To what extent is the adopted criminal policy effective in confronting and addressing corruption crimes in public contracts, given their specificity?

We have decided to split the study into two primary portions in order to address this major topic and several associated sub-questions:

- Section One: The Substantive Policy Adopted to Combat Corruption Crimes in the Field of Public Contracts
- Section Two: The procedure used to deal with corruption offenses pertaining to governmental contracts.

The study's approach was determined by the nature of the subject being studied. We have decided to use both an analytical method to evaluate legal views and the position of Algerian legislation by analyzing the legal documents regulating the subject and a descriptive technique to investigate some notions that need to be precisely defined and described.

The first topic: The Substantive Policy Adopted to Combat Corruption Crimes in the Field of Public Contracts

A plague that damages society and the national economy, corruption offenses involving public contracts stand in the way of any efforts to strengthen the economy and promote economic growth. Since combating corruption cannot be achieved in practice without a legal system devoted to defining the crimes that constitute such behaviors, which threaten the stability of states and

1- A. Bousqiaa, *The Concise Book on Special Criminal Law*, vol. 2, Algiers: Dar Houma for Publishing and Distribution, 2007, p. 05.

societies, it is imperative that we confront this phenomenon by establishing a legal framework aimed at limiting its alarming spread.¹

without explicitly designating them as such, ever since the Penal Code was issued. In Chapter Four of the aforementioned statute, the lawmaker instead addressed these concerns under the heading "Felonies and Misdemeanors Against Public Safety." People often call these "functional crimes."

The United Nations Convention against Corruption is one example of how the international community and national legislators have prioritized fighting these crimes because of their gravity. The goal of Algeria's anti-corruption strategy has been to avoid corruption in both the public and private spheres while actively working to combat corruption and hold those who engage in it accountable. This has been achieved through the implementation of a number of significant laws and procedures that define and broaden the definition of corruption crimes, outline the punishments that are prescribed for them, increase the severity of penalties for specific offenses, and add supplementary sanctions to combat the corruption phenomenon.

The first requirement :Preventive Mechanisms to Limit Corruption in the Field of Public Contracts and Public Mechanisms

A number of preventative measures and methods are outlined in Chapter Eight, notably in Articles 03 to 16, of the Law on the Prevention and Combat of Corruption (PCC). The standards of accountability, openness, and integrity are the main focus of these measures, which are applicable to both the public and commercial sectors. They cover, among other things, procedures including asset disclosures, compliance with the rules guiding the creation of public contracts, and openness in interactions with the general public.

First section: Asset Declaration as a Preventive Mechanism to Limit and Combat Corruption

Some nations use asset declaration as one of the tools in their policies to monitor public personnel' financial holdings and fight administrative corruption²and determining any potential modifications. The goal is to find cases of unexpected wealth increase that could be the consequence of participation in certain crimes related to administrative corruption. This is accomplished by

1- S. Soultani, Mechanisms for Combating Corruption Crimes in Algerian and Comparative Legislation, Doctoral dissertation, Faculty of Law and Political Sciences, University of Oran 02, Mohamed Ben Ahmed, Oran, Algeria, 2018, p. 74.

2- A. Hahaa, Legal Mechanisms for Combating Administrative Corruption in Algeria, Doctoral dissertation, Faculty of Law and Political Sciences, Mohamed Khider University of Biskra, Biskra, Algeria, 2012, p. 226.

mandating that everyone who has taken on public power reveal to the authorities all of their assets, both immovable and moveable, i.e., by filing a statement of their financial assets. Finding any illegal gains that add to their wealth and holding them responsible for any money obtained illegally for themselves or others, as well as any notable increase in their assets or the assets of their spouse or minor children that cannot be justified in relation to their legitimate income, are the objectives.

An essential component of the overall system for preventing and combatting corruption, asset disclosure is a crucial step in emulating the idea of openness in public life. Articles 4, 5, 6, and 36 of the Law on the Prevention and the Algerian parliament has utilized the fight against corruption to regulate its content,¹ thus, asset disclosure is seen as a transparency guarantee.² "In order to ensure transparency in political life and public affairs, protect public property, and safeguard the integrity of individuals entrusted with public service, public employees are required to declare their assets..." is the language of Article 4 of the Law on the Prevention and Combating of Corruption (PCC), which mandates asset declaration as one of the most important preventive measures in the public sector."

The asset declaration lists all of the declarant's or their minor children's movable and immovable assets, whether they are jointly held in Algeria or outside.³

Additionally, the appendix to Presidential Decree No. 06/414 clearly describes the content of the asset declaration, outlining three kinds of assets that public personnel are required to disclose. These include monetary liquidity, investments, and any other assets; transportable properties; and immovable properties, both constructed and unconstructed.

Assets are defined by the Algerian lawmaker in Article 2 of the Law on the (PCC) as "all kinds of assets, whether material or immaterial, movable or immovable, tangible or intangible, and the legal documents or instruments that prove ownership of these assets or related rights."

It is important to note that the lawmaker only allowed the workers and their young children to declare their assets; the spouse's assets were not

1- S. Soultani, op. cit., p. 75.

2- F. Mimouni and K. Resources, "The Criminal Policy of the Algerian Legislator in Facing the Phenomenon of Corruption," *Journal of Judicial Ijtihad* 4, no. 5 (September 2009), p. 231.

3- Z. Zouzou, *Crimes of Public Contracts and Mechanisms for Combating Them Under the Anti-Corruption Law*, Master's thesis, KasdiMerbah University of Ouargla, Ouargla, Algeria, 2011, p. 192.

included. By shifting their unlawful assets to their spouse's ownership, the employee may be able to avoid criminal punishment for illicit gain.¹

Therefore, even if the spouse and employee are not financially connected, we suggest changing Article 5 of the Law on the (PCC) to require the spouse to report their assets. This is due to the fact that the employee's and their young children's asset declarations are not enough to trace down all questionable monies. Closing all gaps and channels for hiding illegal cash is therefore necessary to combat the crime of illicit enrichment while maintaining integrity and openness.²

A public employee is required to provide an asset declaration within a month of being appointed to their job or the beginning of their electoral term, as per Article 4/2 of the Law on the (PCC).³

Second section: Ensuring the Principles of Transparency and Integrity in the Conclusion of Public Contracts

In an effort to eradicate corruption in all of its manifestations, the Algerian lawmaker has broadened the scope of its efforts to prevent and discourage the conduct of corruption offenses to include the area of public contracts. The lawmaker sought to create methods to prevent this crime from happening in the public sector as well as to battle it when it does occur in different forms, such as bribery in the public contracting industry and the crime of unwarranted privileges. Article 9 of the Law on the (PCC) reflects this, saying:

"Transparency, fair competition, and objective criteria must serve as the foundation for the processes used in the realm of public contracts. These regulations must expressly guarantee:

- Information on the processes for signing governmental contracts is made available to the public.
- Preparing the selection criteria and participation in advance.
- Clear and impartial standards for deciding whether to conclude governmental contracts."
- As a result, the government views openness as crucial when choosing contractors, particularly when it comes to public contracts. From the beginning to the end, this idea forms the basis of the processes pertaining

1- A. Hahaa, op. cit., p. 227.

2- Ibid., p. 228.

3- Article 04 of Law No. 06-01, op. cit.

to public contracts.¹It ensures that the contractual procedure between the parties is legitimate. According to the principle of transparency, the other party entering into a contract with a party that is superior in every way is given a clear guarantee and a token of trust when the contracting administration formally publishes its intention to enter into a contract through legal means. Any violation of this rule skews the public contracting process and creates opportunities for corruption and embezzlement of public monies. As a result, the Algerian lawmaker has taken the initiative to put in place a number of preventative measures that are required to improve adherence to integrity and openness in the realm of public contracts,² tackling a range of social and economic issues. A set of guidelines and limitations pertaining to the execution of public contracts are also included in the Law on Public Contracts and Public Service Delegations,³ which together uphold the values of transparency, equality, and honesty. This strengthens the Law on the (PCC) Article 9 provisions.

The second requirement: Objective Mechanisms for Criminalization and Punishment to Curb Corruption Crimes in Public Contracts

Since the publication of the Penal Code, Algerian lawmakers have placed a high priority on preventing corruption in the context of public contracts. It is important to note that in many corruption offenses that were previously covered by the Penal Code, the lawmaker only restated the requirements in a different way. But in other cases, the lawmaker not only repeated the rules but also broadened the definition of criminality in an effort to include as many corrupt practices as possible.⁴

First section: Expanding the Scope of Corruption Crimes

Articles 25 to 47 of the Law on the (PCC) of Corruption contain definitions of corruption crimes that have been broadened by Algerian lawmakers. The criminal offenses listed in Articles 36 to 47 of the Anti-Corruption Law include bribery of foreign public officials and officials of

1- M. B. Shaalal, "Procedures for Public Contracting: Transparency Guarantees or Restrictive Barriers," *Journal of Ijtihad for Legal and Economic Studies*, no. 9 (2015), p. 56.

2- A. Boukhalfa, *Characteristics of Public Procurement in Algerian Legislation*, Master's thesis in Public Law, Specialization in Administrative Litigation Law, Faculty of Law and Political Science, MouloudMammeri University, TiziOuzou, Algeria, 2018, p. 30.

3- Presidential Decree No. 15-247, *Organizing Public Procurement and Public Service Delegations*, Official Gazette, no. 50, Algiers, Algeria, September 20, 2015, p. 03.

4- S. Soultani, *op. cit.*, p. 141.

international organizations, illegal tax and duty exemptions and reductions, abuse of office, conflict of interest, false declaration or failure to declare, illicit enrichment, receiving gifts, hidden financing of political parties, bribery in the private sector, money laundering of criminal proceeds, concealment, obstruction of justice, assault on witnesses, experts, whistleblowers, and victims, false reporting, and failure to report corruption crimes.¹

In an attempt to address this pervasive problem, the lawmaker tried to prosecute any conduct that fits under the purview of the aforementioned offenses, which is noteworthy in this respect.

As stated in the Law on the (PCC) of Corruption, the most significant offenses pertaining to public contracts will be the main topic of this essay.

Firstly: Crimes of Unjustified Advantages in Public Contracts

The offense of unwarranted benefits is covered under Article 26 of the Anti-Corruption Law. When this item is closely examined, it becomes clear that it is divided into two sections, each of which represents a different crime. The offense of offering unwarranted benefits is discussed in the opening paragraph of this article. It entails the public official in charge of completing, carrying out, or supervising the contract breaking the rules and regulations governing public contracts. In support of this, Article 26's first paragraph reads: "Any public official who concludes a contract, approves or reviews a contract, agreement, or public procurement contrary to the applicable legislative and regulatory provisions, with the intention of granting unjustified advantages to others."

The second section of Article 26 of the Anti-Corruption Law states that "Any merchant, industrialist, craftsman, contractor from the private sector, or generally any natural or legal person who, even on an occasional basis, concludes a contract or public procurement with the state, local authorities, public institutions, or entities subject to public law, public economic institutions, or public institutions of an industrial or commercial nature, and benefits from the influence or authority of officials of the aforementioned entities to increase the prices they usually apply or to modify in their favor the quality of materials or services, delivery times, or supply terms."

Examining this item makes it evident that the lawmaker expects the offender to be a private sector natural or legal person, barring legal entities from the public sector. Both the material component—the illegal act of abusing a public official's power and influence to obtain unwarranted advantages—and the

1- C. Saleh, "Evaluation of Anti-Corruption Policy in Algerian Legislation," *Journal of Transformations* 1, no. 2 (June 2018), p. 11.

mental component—the existence of criminal intent, or the perpetrator's intention to use the public official's influence to obtain unwarranted advantages—must be present for this crime to be proven.

Secondly: The Crime of Bribery and Illegally Obtaining Benefits

The most pervasive and deadly crime in the field of public contracts is bribery, which not only allows a public official to illegally enrich themselves at the expense of the public interest but also negatively affects the administration's reputation. In order to save public finances, the Algerian legislature made this act illegal. This is stated in Article 27 of the Law on the Combating and Preventing Corruption: "A public official who receives or attempts to receive, for themselves or others, directly or indirectly, any payment or benefit of any kind in connection with the preparation or negotiation of a contract, agreement, or annex in the name of the state, local authorities, public institutions of an administrative nature, public institutions of an industrial or commercial nature, or public economic institutions, shall be punished by imprisonment for a term of ten (10) to twenty (20) years and a fine of 100,000 DZD to 2,000,000 DZD."

It is clear from the article's content that the lawmaker made it illegal for public officials to receive or seek to get advantages for themselves or others. Furthermore, the lawmaker went one step farther and made attempting to commit the act illegal. Generally speaking, bribery is when someone trades in or takes advantage of the responsibilities of a public office in exchange for a promise or other reward.¹ In order for this offense to be proven, it must have a material component, which is demonstrated by the public official receiving or attempting to receive commissions of any kind. Therefore, the solicitation and acceptance of a bribe is the illegal action in this case.² Since this is a deliberate crime, the mental component is the existence of criminal intent.

According to Article 35 of the Law on the (PCC) of Corruption, "...Any public official who directly or through a fictitious contract or through another person receives benefits from contracts, bids, tenders, or companies that they manage or supervise, in whole or in part, at the time of committing the act, or who is tasked with issuing payment orders in a transaction and receives benefits from it in any form." This article describes the crime of illegally obtaining benefits."

1- A. A. Al-Qahwaji, *Criminal Law: Crimes Against Public Interest, Humanity, and Property*, 2nd ed., Lebanon: Al-Halabi Legal Publications, 2002, p. 18.

2- Z. Zouzou, *op. cit.*, p. 114.

The offender must be a public official in order to commit this offense, which is one type of bribery. Along with both broad and particular criminal intent, the illicit receipt of benefits is a major factor.

Thirdly: The Crime of Receiving Gifts

The Law on the (PCC) of Corruption addresses this in Article 38, which states that "a public official who accepts a gift or any undue advantage from a person that may affect the course of a process or a transaction related to their duties shall be punished by imprisonment for six (6) months to two (2) years and a fine of 50,000 DZD to 200,000 DZD." In addition to the existence of criminal purpose, which includes both awareness and will, the illegal action in this case is the acceptance of the gift or advantage. It is crucial to remember that this crime is hard to prove in real life since it is hard to prove that the gift affected how things turned out.

In conclusion, it is clear from our examination of a few of these crimes that the Algerian legislature has expanded the list of crimes that a public official might conduct in an attempt to reduce the prevalence of administrative corruption.

The Second section: Increasing Penalties as a Mechanism to Curb Corruption in Public Contracts

It is notable in this regard that the lawmaker distinguished between the punishments for corruption offenses and misdemeanors. To safeguard public finances, the lawmaker increased the severity of punishments for public sector corruption offenses, including embezzlement, bribery in public contracts, and public sector bribery, even though their severity varied.¹ The punishments include a fine of between 200,000 and 1,000,000 DZD and two to 10 years in jail. On the other hand, private sector corruption offenses including bribery and embezzlement have less severe penalties, with fines between 50,000 and 500,000 DZD and jail terms ranging from six months to five years.

Under Article 48 of the Anti-Corruption Law, the Algerian lawmaker also enforced harsher penalties for corruption offenses when the offender is a judge, a high-ranking state official, a public official, a member of a public body, an officer, a judicial police agent, someone using specific judicial police powers, or a court clerk. In these situations, the penalty consists of 10–20 years in jail and the same amount of money that was set aside for the offense.²

1- C. Saleh, op. cit., pp. 12–13.

2- Article 48 of Law No. 06-01, op. cit.

The second topic: The Procedural Policies Adopted to Combat Corruption Crimes in Public Contracts

Recognizing the seriousness of corruption offenses, the Algerian parliament has enacted a defined criminal strategy to tackle them. This was accomplished by enacting a number of stringent laws and regulations designed to provide a framework for the law that would restrict these illegal actions. Apart from the actual policy to fight corruption offenses,¹ In order to address this pervasive issue in both public and private sector administrations, the Algerian lawmaker has also put in place a methodical procedural strategy.

First requirement: Introducing and Activating Special Investigation Techniques as One of the Most Important Legal Tools for Preventing and Combating Corruption

Under the supervision and oversight of the judiciary, "those operations, procedures, or techniques undertaken by the judicial police with the aim of investigating serious crimes stipulated in the Penal Code, gathering evidence, and identifying perpetrators, all without the knowledge or consent of the concerned individuals" are referred to as special investigative techniques.² In an attempt to curb the spread of corruption, modern investigative techniques have been introduced in cases of corruption crimes that may violate human rights, as stated in Article 50 of the United Nations Convention Against Corruption, Article 26 of the Arab Convention Against Corruption, Article 56 of Law No. 06-01 of February 20, 2006, on the (PCC), and Articles 65 bis 04 to 65 bis 18 of the Algerian Code of Criminal Procedure.³ What are these unique techniques and processes, then?

First section: Electronic Surveillance

Voice recording, picture taking, electronic and textual communication interceptions, and phone tapping are all part of electronic surveillance. Although it also violates people's right to privacy and individual liberties, the use of electronic monitoring is intended to combat and reduce administrative corruption.

The installation of technological devices, such as cameras and voice recorders, without the knowledge or consent of the people involved in order to

1- A. Hahaa, op. cit., p. 294.

2- A. Khalfi, Lectures on Criminal Procedure Law, AinM'lila, Algeria: Dar El-Houda, 2010, p. 69.

3- A. Bouchareb, "Legal and Institutional Mechanisms for Preventing and Combating Corruption in Public Procurement," Journal of Professor Researcher for Legal and Political Studies 1, no. 7 (2017), p. 350.

record, document, and capture private or confidential conversations made by one or more people in dubious private or public settings is known as "recording voices and capturing images." The Algerian Code of Criminal Procedure's Article 65 bis 05 states that these devices may only be put with the public prosecutor's consent.¹ Because it violates individual privacy, this activity is in violation of human rights.

Capturing images refers to the process of photographing one or several individuals located in a private place, as outlined in.² For this, visual monitoring devices that record both sound and images are used, and recent advancements in this field's technology enable the acquisition of images from considerable distances.³

Judicial police personnel are able to review and study written and electronic correspondence before determining whether to intercept it or let it reach its intended destination. Additionally, this method violates human rights as it goes against the idea of personal privacy.

Phone tapping is the practice of surreptitiously listening, without authorization, to a person's private or confidential conversations or exchanges between two or more people. The individual suspected of being involved in a corruption crime is secretly fitted with a device or chip that tracks their everyday actions and movements, perhaps leading to their arrest while committing a crime.

Second section: Infiltration or Undercover Operations

When investigative or inquiry demands emerge regarding offenses listed in Article 65 bis 05, the legislature added a new tactic called infiltration or covert operations in the 2006 amendment to the Code of Criminal Procedure. Under their supervision and under certain circumstances, the public prosecutor may approve the start of an undercover operation.⁴

One of the unique investigative methods that enables a judicial police officer or agent to enter a criminal organization under the supervision of another judicial police officer who is in charge of organizing the undercover operation is infiltration, also known as undercover work. Monitoring suspects and learning about their actions while posing as either an accomplice or a criminal is the

1- Ibid., p. 350.

2- Article 65, 05 of Law No. 06-22, Criminal Procedure Code, Official Gazette, no. 84, Algiers, Algeria: Government of Algeria, December 24, 2006.

3- A. Hahaa, op. cit., p. 262.

4- Article 65, 11 of Ordinance No. 66-155, amended and supplemented by Article 14 of Law No. 06-22, Criminal Procedure Code, Algiers, Algeria: Government of Algeria.

aim.¹ For this aim, the judicial police officer is allowed to adopt a false identity and may take the required steps to uncover crimes involving public contracts. According to Article 56 of the Law on the (PCC), "to facilitate the collection of evidence related to crimes stipulated in this law, controlled deliveries or the use of special investigative techniques such as electronic surveillance and infiltration may be employed as appropriate and with the authorization of the competent judicial authority."

Certain circumstances are necessary for the infiltration or undercover operations technique. The operation must be carried out as a component of a public contract investigation or inquiry. It is important to obtain authorization from the appropriate judicial body, and this authorization must include all relevant legal terms and information. Finally, the undercover operation's duration must be restricted to no more than four months, with the option to extend it for an additional four months.

The Second requirement: Establishing Anti-Corruption and Prevention Agencies

Algeria has ratified a number of anti-corruption international, Arab, and African accords, which have greatly influenced the overall approach to anti-corruption efforts. Algeria has implemented a number of structural policies and initiatives at the national level. By establishing national organizations like the National Body for the (PCC) and specialized organizations like the Central Bureau for the Suppression of Corruption, the Algerian legislator put in place measures to stop the spread of corruption crimes.²

First second: The National Body for the Prevention and Combating of Corruption (PCC)

Articles 17 to 24 of Law No. 06-01 on the Prevention and Combating of Corruption established this organization.³ Notably, the majority of its duties are advisory in nature. Despite being called the "National Body for the Prevention and Combating of Corruption," Article 20 of the aforementioned statute makes clear that its primary function is prevention rather than combatting corruption.

The National Body is an autonomous administrative body that possesses both financial and legal autonomy. Its duties include putting the national anti-corruption plan into action and, by offering prevention-related advising

1- Z. Zouzou, op. cit., p. 163.

2- B. Boubachtoula and H. Kadda, "Mechanisms for Combating Corruption and Their Effectiveness in Algerian Legislation," *Journal of Academic Researcher Studies* 8, no. 2 (April 4, 2020), p. 557.

3- A. Bouchareb, op. cit., p. 364.

assistance, putting forward a comprehensive policy for corruption prevention. Its primary consultation duties are to uphold the rule of law and demonstrate honesty, openness, and responsibility in the administration of public monies.¹

It is clear from assessing the National Body for the Prevention of Corruption's performance that its main function is preventative. Article 20 of the aforementioned statute reflects this, requiring the body to forward any criminal findings to the Minister of Justice, who is in charge of launching a public prosecution if required. However, the power to look into and collect evidence runs counter to the body's administrative structure.² Therefore, how can the legislation permit the body to work with the Public Prosecution to gather evidence and look into occurrences while also requiring it to give up its involvement in criminal matters? Isn't this a constraint and limitation on the body's ability to fight corruption crimes?

Additionally, it is observed that the board has made very little progress in addressing corruption charges, which suggests that the agency has serious problems carrying out its mandate. It assigns matters to the Minister of Justice despite having legal personality and the ability to litigate, which we believe limits its ability to start public prosecutions.³

Regarding the asset declaration process, the organization is unable to keep tabs on the assets of officials' and workers' spouses and adult children or track different rises in financial holdings. The assets of the declarant's spouse and adult children must be included in the declaration, per Article 5 of Law No. 06-01 on the (PCC). Since any citizen or official might identify their personal assets that they have gained during their term under their spouse's name, which allows for unlawful enrichment, this does not guarantee successful anti-corruption operations.⁴

Therefore, it is advised to alter Article 20 of the Law on the (PCC) by giving the body more authority and responsibilities, with the major focus being on combatting corruption, followed by prevention, in order to minimize inconsistencies and a lack of coherence in the legislative provisions.

Second section: The Central Bureau for the Suppression of Corruption

1- F. Meziani, "Prevention and Combat of Corruption in Public Procurement," *Al-Bahith Journal for Academic Studies* 1, no. 2 (June 2014), p. 14.

2- H. Khodri, "Prevention and Combat of Corruption in the Framework of Public Procurement," *Notebooks of Politics and Law* 4, no. 7 (June 2012), p. 183.

3- Z. Zouzou, *op. cit.*, p. 189.

4- B. Boubachtoula and H. Kadda, *op. cit.*, p. 563.

An active judicial police agency dedicated to fighting corruption is the Central Bureau for the Suppression of Corruption. The Central Bureau for the Suppression of Corruption was created by Article 24 bis, which was added to Law No. 06-01 in 2010. Presidential Decree No. 11-426, issued on December 8, 2011, governs its activities and outlines its composition, structure, and operational procedures. At first, the Minister of Finance had jurisdiction over the Bureau.¹ But because of the nature of its job, it was placed under the jurisdiction of the Minister of Justice, Keeper of the Seals, by Presidential Decree No. 14-209, issued July 23, 2011.

The Central Bureau is in charge of looking into and identifying offenses related to corruption. The Bureau's judicial police officers carry out their tasks in compliance with the Law on the (PCC) regulations as well as the Code of Criminal Procedure. They have jurisdiction over all of the state's territory with regards to corruption crimes and associated charges.²

Presidential Decree No. 11-426's provisions, as stated in Articles 2, 6, 14, 19, 21, and 22, provide the Bureau both administrative and primarily judicial responsibilities.

In response to the December 13, 2009, directive on activating anti-corruption measures, which highlighted the necessity of strengthening anti-corruption systems, the Algerian parliament formed the Central Bureau for the Suppression of Corruption in order to evaluate its performance or function. The Bureau's establishment is a reflection of the state's attempts to fight corruption both at home and abroad. As a repressive and deterrent device to combat corruption offenses, the Bureau has been tasked with tasks that are largely focused on investigation and detection. However, because of its subordination to the Ministry of Justice, this position is insufficient. The Bureau's ability to successfully combat corruption crimes is limited by its lack of independence and legal personality as an executive branch agency. Additionally, its subordination runs counter to its goals and policies for combating corruption.³

Conclusion:

It is impossible to attribute the high frequency of crimes involving public contracts to the incapacity of Algerian lawmakers to handle this issue. Even with the creation of a complete criminal policy and legal system, as well as a legal

1- A. Bouchareb, op. cit., p. 364.

2- F. Meziani, op. cit., p. 14.

3- B. Boubachtoula and H. Kadda, op. cit., p. 564.

foundation for these offenses, the intended result is not achieved. Finally, we have arrived at a number of conclusions, which may be summed up as follows:

- The lawmaker required public employees to disclose their assets in order to avoid suspicion after reviewing the substantive criminal policy on offenses involving public contracts. However, because it only applies to the declarant and their minor children, this declaration is still unclear.
- Because of their unique nature, the criminal policy that the legislator adopted to combat crimes related to public contracts—particularly the procedures before investigative bodies—has been greatly aided by the addition of sophisticated special investigative techniques to these bodies.
- It is evident from the creation of special anti-corruption organizations, such as the Central Bureau for the Suppression of Corruption and the National Body for the (PCC), that although these organizations are crucial in identifying corruption crimes, their independence and rigor in carrying out their duties are lacking. Despite being a separate administrative body, the National Body for the Prevention of Corruption maintains its seeming independence, and because it is unable to send cases directly to the courts, it has little ability to suppress corruption offenses.
- The Central Bureau for the Suppression of Corruption's capacity to carry out its actual function of preventing and combatting corruption offenses has been hampered by its lack of independence, legal identity, and financial autonomy.
- In order to expedite the judicial procedure and make it easier to suppress these crimes, the lawmaker has raised the penalty for offenses pertaining to public contracts and classified them as misdemeanors.
- The following are some suggestions and ideas that we think might be useful in combating corruption offenses pertaining to public contracts:
 - An efficient approach that upholds the values of honesty and openness must be implemented in order to lessen the detrimental effects of this phenomena and its pervasiveness.
 - More work should be done to improve the judicial and investigative systems' capacity to find and stop these crimes.
 - By guaranteeing their financial independence, neutrality, and legal personality, national bodies can better detect and deter these crimes and fulfill their designated responsibilities. This will strengthen the recently established special investigative and research procedures.

In conclusion, despite the state's attempts to combat corruption and develop a legislative strategy to reduce crimes linked to public contracts, the absence of strong enforcement has resulted in these efforts falling short of the appropriate level.

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