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The Mechanisms of the Algerian Administrative Organization and Their Impact on Anti-Corruption Strategies

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Abstract:

The Algerian administrative organization, through its territorial and functional dimensions, forms an integrated system to combat corruption and eliminate its sources by distributing oversight powers. Territorial decentralization, represented by municipalities and provinces, activates grassroots monitoring and brings administration closer to citizens, reducing bureaucratic exploitation. Conversely, functional organization strengthens this pursuit via independent bodies with technical mandates to audit financial and administrative management. This

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overlap ensures rigorous ex-ante and ex-post oversight, protecting public funds and enshrining transparency in procurement. Furthermore, integrating digitalization has minimized human intervention, curbing nepotism and bribery. Ultimately, this coordination builds an honest administration under the rule of law.

Key words : Administrative Integrity, Financial Oversight, Decentralization, Protection of Public Funds, Constitutional Bodies

1. INTRODUCTION

The administrative organization in the Algerian State is considered the fundamental pillar for implementing public policies. It is not merely a rigid structure for task distribution, but rather a dynamic system aimed at achieving the public interest and protecting the nation's resources. This organization is based on an integrated duality that combines **Territorial Organization**—represented by local collectivities (**the Commune and the Wilaya**) as a tool to bring the administration closer to the citizen and embody decentralization—and **Functional (Service-based) Organization**, manifested in

public administrative institutions and independent bodies endowed with legal personality and financial autonomy to perform specific technical or service-oriented tasks [1].

The relationship between administrative structure and the phenomenon of corruption is inherently proportional; the more the administrative organization is robust and grounded in principles of transparency and accountability, the more the opportunities for abuse of power diminish. In Algeria, the administrative organization has undergone profound transformations, particularly with successive constitutional amendments that sought to constitutionalize anti-corruption bodies and institutionalize integrity. Corruption, as a cross-structural phenomenon, finds fertile ground in administrative gaps and bureaucracy. Consequently, the Algerian legislator has linked the reform of territorial organization (Commune and Wilaya laws) with the National Strategy for the Prevention of Corruption[2].

[1] **Ammar Boudiaf**, *Al-Wajiz in Administrative Law*, Dar Al-Rayhan, Algeria, 2017, p. 45.

[2] **Baali Mohamed Seghir**, *Administrative Law (Administrative Organization)*, Dar Al-Ouloum for Publishing and Distribution, Algeria, 2012, p. 88.

Within the context of territorial organization, the Commune and the Wilaya emerge as the primary fronts in the fight against corruption, given their authority to award public contracts and manage agricultural and industrial land. At the functional organization level, public institutions, despite their autonomy, are subject to strict administrative (tutelage) and financial oversight aimed at preventing the dissipation of public funds. This organizational intersection mandates mutual oversight mechanisms; the Algerian administrative organization no longer relies solely on traditional (tutelage) oversight but has expanded to include judicial, accounting, and popular oversight in an attempt to contain the phenomenon of corruption that threatens the state's economic and social fabric [3].

Based on the foregoing, the parameters of this study are defined by attempting to address the following pivotal problematic: **"To what extent does the Algerian administrative organization, in both its territorial and functional aspects, influence the activation of anti-corruption mechanisms? And has this legal structure**

[3] **Rachid Khaloufi**, *Local Administration Law in Algeria*, University Publications Office (OPU), Algeria, 2014, p. 201.

succeeded in creating an administrative environment immune to financial and administrative violations?"

Accordingly, we shall attempt to address the proposed problematic as follows:

The Role of Territorial Administrative Organization in Containing Local Corruption:

Territorial organization in Algeria, based on administrative decentralization, is considered a double-edged sword. While it grants autonomy in managing local affairs, it may also create an environment for the emergence of local power centers distant from central oversight. Consequently, the legislator has surrounded this organization with structural and legal guarantees aimed at professionalizing and ethicalizing (moralization) local management

01- Tutelage Oversight as a Preventive Mechanism Against Abuse of Power

Tutelage oversight (Administrative Tutelage) exercised by the **Wali** over the **Commune** [4]or by the Minister of Interior over the **Wilaya**, serves

[4] **Articles 41 to 45** of Law No. 11-10 relating to the **Commune**, Official Gazette No. 37, 2011, as amended and supplemented.

as a pivotal tool to ensure the legality of decisions. Through the powers of **"Approval" (Ratification)** and **"Annulment" (Cancellation)**, the tutelage authority can suspend the execution of decisions tainted by suspicion of corruption or conflict of interest, particularly in the areas of **public procurement** and **land distribution**[5]

02- Transparency in Local Public Service Management (Publicity and Digitalization)

Modern territorial administrative organization has introduced the principle of **"Publicity of Deliberations"** (Article 11 of the Commune Code) [3], a mechanism that allows citizens and civil society to exercise **popular oversight**. Furthermore, the shift toward the **"E-Commune"** contributes to reducing bureaucracy by tracking files digitally, thereby minimizing opportunities for bribery and administrative bargaining.[6]

03- The System of Incompatibility and Asset Declaration for Local Elected Officials

[5] **Dr. Ammar Boudiaf**, *Al-Wajiz in Administrative Law*, Dar Al-Rayhan, Algeria, 2017, p. 156.

[6] **Article 11** of Law No. 11-10 relating to the Commune (Principle of Publicity of Sessions).

Territorial organization has imposed strict restrictions on local elected officials (Presidents and members of assemblies) to prevent the exploitation of their electoral mandates. The law mandates that elected officials **declare their assets** at the beginning and end of their term. It also prohibits the **concurrency (accumulation)** of their membership with any commercial activity that may lead to a **conflict of interest** with the territorial collectivity to which they belong [7].

3. Title Second: The Effectiveness of Functional Organization in Combating Corruption (Specialized Bodies)

Functional organization in the fight against corruption is manifested through the creation of bodies of a technical and oversight nature. These bodies enjoy administrative and financial independence and function as regulatory mechanisms for the integrity system, distinct from the traditional management of the central administration.

01- The High Authority for Transparency, Prevention, and Combating of Corruption

[7] **Mourad Boumedienne**, *Participatory Democracy in Local Collectivities*, Journal of Legal Research, University of Algiers 1, 2021, p. 45.

This Authority represents the pinnacle of the functional oversight hierarchy, having been elevated from a consultative body to a **Constitutional Oversight Institution** under the 2020 Amendment [8],It is tasked with core mandates, including administrative investigations into manifestations of **illicit enrichment** among public officials and the formulation of the **National Strategy for Transparency** [9]

Under the **2020 Constitutional Amendment**, the Authority is recognized as an **independent constitutional oversight institution**, free from the tutelage of the President of the Republic—unlike the previous "Body" (Instance) [10]. Article 205 of the Constitution stipulates that: *"The High Authority for Transparency, Prevention, and Control of Corruption is an independent institution."*

[8] **Articles 204 and 205** of the Constitution of the People's Democratic Republic of Algeria, 2020. **Law No. 22-08** dated May 5, 2022, defining the organization, composition, and powers of the High Authority for Transparency, Prevention, and Combating of Corruption, Official Gazette No. 32.

[9] **Dr. Azzi Louiza**, *Newly Developed Legal Mechanisms for Combating Corruption under Law 22-08*, Journal of Legal Studies, University of Tipaza, 2023, p. 112.

[10] Othman Houidhek, Mohamed Lamine Selkh, *The Legal Framework of the High Authority for Transparency, Prevention, and Control of Corruption*, Journal of Legal and Political Sciences, Vol. 13, No. 01, 2022, p. 476.

The High Authority aims to **"achieve the highest indicators of integrity and transparency in the management of public affairs,"** pursuant to Article 4 of the Law defining its organization, composition, and powers. The aforementioned law also specifies the powers devolved to the Authority alongside those stipulated in the Constitution, including:

- **Information Management:** Collecting, centralizing, exploiting, and disseminating information and recommendations to assist public administrations and any natural or legal person in preventing and detecting acts of corruption.
- **Asset Disclosure:** Receiving **Asset Declarations**, ensuring their processing, and monitoring them in accordance with the legislation in force.
- **Financial Investigations:** Conducting administrative and financial investigations into signs of **illicit enrichment** of public officials who cannot justify a significant increase in their liabilities or assets. These investigations may extend to any person suspected of concealing the unjustified wealth of a public official if the latter is found to be the **beneficial owner** under current legislation.
- **Procedural Authority:** The High Authority may request written or oral clarifications from the public official or the person

concerned. Notably, **professional or banking secrecy** cannot be invoked against the High Authority.

- **Whistleblowing and Reporting:** Any natural or legal person may report or notify the High Authority regarding information or evidence related to acts of corruption. To be admissible, the report must be written, signed, and contain sufficient elements to identify the whistleblower and the act of corruption. **Whistleblower protection** is guaranteed under the legislation in force.
- **Compliance Monitoring:** Monitoring the extent to which public administrations, local collectivities, public institutions, economic enterprises, and associations comply with transparency and anti-corruption systems.

Corrective Measures: When the High Authority observes a breach of integrity rules—either *suo motu* (on its own motion) or via a report—it may take the following measures:

1. Issuing a **Formal Notice (Injunction)** to the concerned party if the provided answers are inadequate.

2. Issuing **Orders** in cases of delayed declarations, deficiencies, inaccuracies, or failure to respond to clarification requests.
3. **Notifying the Competent Public Prosecutor** in cases of non-declaration (after formal notice) or **fraudulent asset declaration (false statement)** [11]

02- The Court of Auditors and its Oversight Role over Public Funds

The **Court of Auditors (Council of Accountants)** represents the supreme body for **ex-post (retroactive) audit** of public funds within the Algerian administrative organization [12]. Its functional strength lies in its authority to examine the management of territorial collectivities and public institutions, penalize management errors, and notify the **Public Prosecution** of facts that carry a criminal character [13] .The Court exercises comprehensive oversight over the management of territorial collectivities, public services, and functional bodies subject to public accounting rules, aiming to ensure the legal and effective use of public

[11] The powers of the Authority are specified in **Articles 4 to 15** of the aforementioned Law No. 22-08.

[12] **Articles 199 and 200** of the Algerian Constitution of 2020. **Ordinance No. 95-20** relating to the Court of Auditors, as amended and supplemented by Ordinance No. 10-02, Official Gazette No. 50.

[13] **Dr. Ammar Boudiaf**, *Public Accounting Law in Algeria*, Jusur for Publishing and Distribution, Algeria, 2020, p. 245.

funds in accordance with the principles of **transparency and efficiency** [14].

Key Jurisdictions:

- **Judicial Powers:** The Court has the authority to adjudicate the accounts of **public accountants** (granting discharge or declaring a deficit). It also features a **"Budgetary and Financial Discipline Chamber"** to penalize **authorizing officers (ordonnateurs)** and controllers who commit management errors resulting in financial damage to the State [15]
- **Consultative Powers and Reporting:** The Court prepares an **Annual Report** submitted to the President of the Republic, including observations on management quality and proposals for improvement. It also contributes to the report on the execution of the **Finance Act** during parliamentary discussions[16] .

[14] **Article 192** of the 2020 Constitution; **Articles 2 to 10** of Ordinance 95-20.
[15] **Articles 88 to 91** of Ordinance 95-20 (Judicial Jurisdiction).
[16] **Article 193** of the 2020 Constitution; **Article 95** of Organic Law 18-15 relating to Finance Laws.

03- Prior Functional Oversight (Financial Controller and Public Accountant)

Within the functional organization of public finance, the role of the **"Financial Controller"** [6] has been activated as an entity affiliated with the Ministry of Finance, exercising **ex-ante (prior) oversight** over expenditure commitments. This system prevents financial crimes before they occur by ensuring that expenditures comply with financial appropriations and applicable laws [17]

Third: The Impact of Integration Between Territorial and Functional Organization in Enhancing Integrity

The fight against corruption in Algeria does not rely on a single entity; rather, it is the result of **functional integration** between territorial structures (Commune and Wilaya) and specialized oversight bodies (Functional Organization). This integration aims to create a comprehensive oversight network encompassing all aspects of public money.

[17] **Law No. 23-07** relating to Public Accounting Rules and Financial Management, Official Gazette No. 41, June 21, 2023.

01- Subjecting Territorial Collectivities to Specialized Functional Oversight

Communes and Wilayas are not subject only to administrative tutelage; they are also functionally subject to the oversight of the **"High Authority for Transparency"**[18] .This is achieved through the mandatory adoption of local corruption prevention programs and the mandatory **asset declaration** for all local elected officials and authorizing officers, making the functional organization a permanent guardian over the legality of territorial management [19]

02- The Role of Judicial and Accounting Oversight in Evaluating Territorial Performance

The impact of functional organization is clearly evident when the **Court of Auditors** (as a functional body) exercises oversight over **municipal budgets** [20]. This type of technical audit complements the gaps in

[18] **Article 07** of Law No. 22-08 (High Authority for Transparency).
[19] **Dr. Hamani Slimane**, *Oversight of Local Collectivities in Algerian Legislation*, University Publications Office (OPU), 2021, p. 180.
Article 12 of Ordinance 95-20.[20]

administrative tutelage by focusing on the **"quality of spending"** rather than just its "legality," which helps uncover disguised corruption loopholes in local **public procurement** [21]

4. CONCLUSION

In conclusion, this study reveals that the Algerian administrative organization, in both its **territorial and functional** forms, has made significant strides in establishing a legal and structural arsenal to combat corruption—particularly following the **constitutionalization of transparency bodies** and the reinforcement of the **Court of Auditors'** prerogatives. However, practical effectiveness on the ground continues to face bureaucratic hurdles and overlapping jurisdictions.
Consequently, our legal study puts forward a set of recommendations and proposals summarized as follows:

Recommendations and Proposals:

1. **Activating Comprehensive Digitalization:** Accelerating the digitalization of all **public procurement** processes at the

[21] **Dr. Massaoud Chihoub**, *General Principles of Administrative Disputes*, Part 3, OPU, 2019, p. 92.

Commune and Wilaya levels to reduce human intervention and eliminate the root causes of bribery.

2. **Effective Functional Independence:** Strengthening the financial and administrative independence of **financial controllers** and **public accountants** to shield them from the pressures exerted by **authorizing officers (ordonnateurs)** within territorial collectivities.
3. **Reviewing the Immunity System:** Legally defining the limits of **immunity for local elected officials** to ensure it does not obstruct investigations by the **High Authority for Transparency** in cases of *in flagrante delicto* (red-handed) corruption or illicit enrichment.
4. **Activating Participatory Democracy:** Creating binding legal mechanisms that mandate the involvement of local **civil society** in monitoring the implementation of development projects (**Popular Oversight**).
5. **Specialization of the Administrative Judiciary:** Providing specialized training for judges in **administrative and financial crimes** within administrative courts to ensure the swift adjudication of local management corruption cases.
6. **Supporting Branches of the High Authority:** Establishing regional and local branches of the **High Authority for**

Transparency, Prevention, and Combating of Corruption to ensure proximity to decision-making centers in remote regions.

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