

Manifestations of the Independence and Neutrality of the Banking Board in Algeria (In Light of Act No. 23-09)

مظاهر استقلالية وحياد اللجنة المصرفية في الجزائر (على ضوء القانون رقم 09-23)

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Abstract:

Banking supervision is a method through which the state seeks to create a financial foundation that helps financial institutions fulfill their assigned tasks in a way that ensures the position of these institutions on one hand and achieves the objectives of their clients on the other.

Given that the Banking Board is a regulatory body in the banking sector, it is essential to grant it a certain level of independence compared to other authorities and central state administrations. This independence allows the Board to perform its tasks without bias. This study aims to shed light on the key aspects of its organic and functional independence in light of the recent amendment to Act No. 23-09.

We also aspire to present some proposals to enhance the independence of the Banking Board by identifying gaps and shortcomings that still affect it despite the amendment to the Act governing it, along with efforts to explore solutions and suggestions to address the challenges it faces.

Keywords: Board, Banking Board, Organic Independence, Functional Independence, Regulatory Authority.

الملخص:

تعتبر الرقابة المصرفية أسلوب تهدف من خلاله الدولة إلى محاولة خلق أرضية مالية تساعد المؤسسات المالية لأداء المهام المنوطة بها بشكل يضمن مكانة هذه المؤسسات من جهة ويحقق غاية المتعاملين معها من جهة أخرى. وباعتبار أن اللجنة المصرفية هيئة ضابطة في القطاع المصرفي فلا بد من منحها قدرا من الاستقلالية بالمقارنة مع السلطات الأخرى والإدارات المركزية للدولة، الأمر الذي يسمح لها بأداء مهامها بدون تحيز، حيث جاءت هذه الدراسة لتسليط الضوء على أهم مظاهر استقلاليتهما من الناحية العضوية والوظيفية على ضوء التعديل الأخير القانون رقم 09-23. كما نصبو إلى طرح بعض الاقتراحات لتطوير استقلالية اللجنة المصرفية برصد الثغرات ومواطن القصور التي مازالت تعترضها رغم تعديل القانون المنظم لها، مع محاولة البحث عن حلول واقتراحات للمعوقات التي تواجهها. الكلمات المفتاحية: اللجنة: اللجنة المصرفية، الاستقلالية العضوية، الاستقلالية الوظيفية، سلطة الضبط.

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Introduction:

Algeria's economy changed from a socialist system that had been in place since the country became independent to a market economy in the late 1980s. These changes caused the government to stop directly affecting the economy. As a replacement, economic regulatory authorities were set up to work with the market economy system.

Algeria introduced a new institutional mechanism known as independent regulatory authorities, including those overseeing banking activities. This illustrates a political and legal framework that was motivated by the need to detach these authorities from political authority, which resulted in the acknowledgement of their autonomy from the executive branch.

When it comes to economic and financial regulation, "independence" means that regulatory bodies are not obligated to take orders from higher-ups or the president when making decisions. These bodies do not receive orders from any party and make their decisions independently. This principle is embodied in the legal texts governing the monetary and banking fields in Algeria, starting from Act 86-12¹, Act 90-10², and Regulation No. 03-11³, culminating in the issuance of Act 23-09⁴ on monetary and banking regulation.

Given that the Banking Board is one of the most important independent administrative authorities, playing a vital role in regulating monetary and banking activities in Algeria, this study seeks to explore the recent developments related to this Board.

This leads us to the following key question which this article aims to address:

In light of Act No. 23-09, has the Algerian legislator corrected the shortcomings of previous texts and emphasized the support for the independence of the Banking Board?

To address this research question, we predominantly employed an analytical approach by scrutinizing diverse legal texts governing the Banking Board. Furthermore, we utilized the descriptive method as required, adhering to this framework:

- First: Expressions of the Banking Board's Organic Independence.
- Second: Expressions of the Functional Autonomy of the Banking Board.

1. Manifestations of the Organic Independence of the Banking Board

The diversity of the Banking Board's membership, the presence of various provisions pertaining to members' tenure, and their commitment to the principle of neutrality are all strong indications that the Board operates with organic independence.

1.1- The Composition of the Banking Board

The plurality of members in economic regulatory authorities, along with their varying legal statuses and qualifications, is one of the elements that ensures their organic independence. When examining the composition and human makeup of some economic regulatory authorities, it becomes evident that they belong to various sectors, not limited to just one, such as the banking sector, financial sector, judiciary, accounting, and higher education. This creates a mixed blend of experts with experience and competence across multiple fields.

1- Regulation No. 86-12, concerning the Banking and Credit System, Official Gazette, Issue No. 34, dated August 20, 1986.

2- Law No. 90-10, concerning Currency and Credit, Official Gazette, Issue No. 16, dated April 18, 1990.

3- Regulation No. 03-11, concerning Currency and Credit, Official Gazette, Issue No. 52, dated August 27, 2003.

4- Law No. 23-09, concerning the Monetary and Banking Law, Official Gazette, Issue No. 43, dated June 27, 2023.

Concerning the collective structure of the Banking Board, noteworthy advancements have transpired due to modifications in the Currency and Credit Act. Article 106 of Regulation No. 03-11 regarding currency and credit delineates the composition of the Banking Board, which is presided over by a governor. This Board includes three members selected for their specialized knowledge in banking, finance, and accounting, alongside two judges appointed from the Supreme Court, as determined by the court's chief justice following consultations with the Supreme Judicial Council⁵.

However, the Board's composition was amended by Article 8 of Regulation No. 10-04, which revised Article 106 of Regulation No. 03-11⁶ concerning currency and credit. The updated composition includes, in addition to the governor as president, three members chosen for their expertise in banking and finance, one judge seconded from the Supreme Court, another judge from the Council of State, a representative from the Court of Auditors, and a representative from the Minister of Finance⁷.

It is clear from reading Article 8 of the aforementioned Regulation that the Board's human composition has been enhanced with the addition of two new members, one representing the Court of Auditors and the other the Minister of Finance. In addition, the Council of State has the authority to choose one of the two judges who serve on the Banking Board.

Members of the Banking Board are appointed by presidential decree for a five-year term. These members cannot hold any legislative, governmental, or public office, nor can they borrow any amount from any Algerian or foreign institution⁸.

The current composition was established by Regulation No. 10-04; however, in accordance with the requirements of Article 117 of Act No. 23-09 on monetary and banking legislation, the representative from the Ministry of Finance must not hold a position lower than that of a director. There needs to be further diversity in the membership of the Banking Board in order to make well-rounded decisions, as the legislator has made structural changes to its makeup⁹. This diversity is essential for preventing any one institution from constantly dictating terms.

1.2- The Mixed Nature of the Composition of the Banking Board

The Bank Board consists of professionals, managers and economists, especially in the fields of finance, accounting, banking, and judiciary. This is in line with the nature of banking activities, making the Board an independent body from the Bank of Algeria¹⁰, as highlighted Article 120 of Act No. 23-09. The sentence "is added This means that the Board and the Bank of Algeria are two separate legal entities."

Thus, the Board relies on diversity in its composition, especially considering the powers granted to it, which benefit its operations. The legislator has consistently aimed for plurality in the Board's structure. Under the founding Act No. 90-10, Article 144, the Board included

5- Article 106 of Regulation No. 03-11, op. cit.

6- Regulation No. 10-04, amending and supplementing Regulation No. 03-11, concerning currency and credit, Official Gazette, Issue No. 50, dated September 1, 2010.

7- Article 08 of Regulation No. 10-04, amending Article 106 of Regulation No. 03-11 concerning currency and credit.

8- Belaid, Jamila. Bank Supervision and Financial Institutions, Master's Thesis, Business Law, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2001-2002, p. 48.

9- Ajroud, Wafaa. *The Banking Board and the Regulation of Banking Activity*, Al-Hamed Publishing House, First Edition, Amman, 2014, p. 28.

10- Beloudenine, Ahmed. *A Brief on Algerian Banking Law*, Balqis Publishing House, Algeria, 2003, p. 63.

five members. A sixth member, with expertise in banking, finance, and accounting, was added by Regulation No. 03-11. The number increased to eight members following the 2010 amendment, which remains the same in Act No. 23-09.

The French legislator followed a similar approach by increasing the number of members from five to seven in the Bank Supervision Board. In addition to the governor, it includes the treasury director, a judge from the Court of Cassation, a state councilor, and two members chosen for their expertise in banking and finance¹¹.

The Algerian legislator made a sound decision by requiring the presence of experts from various fields within the Banking Board's composition, similar to other independent administrative authorities. This function turned into ensured in Regulation No. 10-04 through a change to Article 106 of Regulation No. 03-eleven, which modified the judiciary's illustration by changing one Supreme Court choose with a decide from the Council of State. This is a qualitative alternate, as the Council of State is responsible for disputes regarding a few choices of the Banking Board. The presence of a Council of State judge may have a direct and advantageous effect on the Board's choices¹², as mentioned in Article 117 of Act No. 23-09.

The same can be said for the representative of the Court of Auditors, the representative of the Minister of Finance, and the three members with expertise in banking, finance, and accounting. These numerous compositions, with its participants' varying specializations, theoretically guarantees the Board's independence¹³.

1.3- The Availability of Rules Related to Tenure as a Guarantee of Independence

Tenure is one of the key pillars of the characterization of independence¹⁴. This is achieved through the presence of its governing rules, including long tenure and uninterrupted tenure. An appropriate length of time must be determined, as too long may adversely affect the ongoing business of government and increase the risk of political influence on voters Rules in the form on the other, long-term members can be overwhelming, especially early in their careers¹⁵.

For the Banking Board, the legislator has set the tenure of its members at five years¹⁶. However, the governor, who serves as the chair of the Board, does not have a specified tenure. Furthermore, the tenure should be non-renewable to ensure independence and to prevent members from obtaining another term through questionable means. A single-term tenure also prevents the appointing authority from having discretion over whether the term is renewable.

When reviewing the legal texts concerning most independent regulatory authorities, including the Banking Board, it is noted that the legislator did not stipulate the principle of non-termination of tenure or the non-dismissal of members. However, in France, the French

11- Belaid, Jamila, *op. cit.*, p. 49.

12- Farahi, Mohamed. *The Impact of Amendments to the Currency and Credit Law on the Composition and Independence of the Banking Board*, *Journal of Legal and Political Research*, University of Saida, Algeria, Issue No. 9, December 2017, p. 151.

13- Ibid., p. 152.

14- Dib, Nadira. *The Independence of Independent Regulatory Authorities in Algerian Law*, Master's Thesis in Public Law, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2011-2012, p. 21.

15- Rachdi, Saida. Presentation titled "The Concept of Independent Administrative Authorities" at the National Conference on Independent Regulatory Authorities in the Economic and Financial Fields, University of Abderrahmane Mira, Bejaia, Algeria, 2007, p. 414.

16- Article 117 of Law No. 23-09, *op. cit.*

Council of State, in its famous *Ordonnances* decision issued on July 7, 1989, emphasized that members of independent regulatory authorities cannot be dismissed before completing their term, even in the absence of a legal provision detailing the reasons for ending the term, and even if they have reached the legal retirement age¹⁷.

1.4- Establishing the Principle of Neutrality or the Incompatibility System

The incompatibility system objectives to ensure the independence of independent administrative government and prevent their subordination to presidential or administrative oversight, thereby making sure their neutrality in performing their obligations closer to the establishments they supervise. This is achieved by applying and respecting the incompatibility device¹⁸.

The Acts governing independent regulatory authorities stipulate the incompatibility system when the roles of members of the governing bodies of these authorities are incompatible with holding any other position, whether public or private, as well as any professional activity or electoral mandate. Additionally, members are prohibited from directly or indirectly holding any interests, which applies to some independent administrative authorities¹⁹.

In the case of the Banking Board, the incompatibility system is embodied in Article 117, paragraph 7 of Act No. 23-09 on monetary and banking Act, which states: "Board members, during their tenure, may not hold any other position or mandate, whether paid or unpaid²⁰."

Furthermore, Article 118 of the same Act subjects members of the Banking Board to the incompatibility system for two years after the end of their tenure. During this period, they are prohibited from managing or working in any institution under the authority or supervision of the Board or in any company controlled by such an institution. They are also barred from acting as agents or consultants for such institutions or companies²¹.

The legislator standardized these obligations for all independent administrative authorities through Regulation No. 07-01. This Act addresses cases of incompatibility and specific obligations for certain positions and roles²². The principle plays a role in enhancing the independence and neutrality of these authorities. This Regulation made it such that all members of autonomous regulatory bodies are subject to the total incompatibility system, doing away with partial incompatibility in the process²³.

2. The Functional Independence of the Banking Board

The functional independence of the Banking Board is manifested through its financial independence (first), the absence of executive authority from its jurisdiction (second), the preparation of its internal regulations (third), its exclusive authority over supervision and disciplinary measures (fourth), and the principle of professional secrecy (fifth).

17- Dib, Nadira, op. cit., p. 28.

18- Ibid., p. 29.

19- An example of this is the members of the Electricity and Gas Regulatory Commission, Article 212 of Law No. 01-02, dated February 5, 2002, concerning electricity and gas, Official Gazette, Issue No. 08, dated February 6, 2002.

20- Article 117 of Law No. 23-09, op. cit.

21- Article 118 of Law No. 23-09, op. cit.

22- Zouaïmia, Rachid. *The Repressive Functions of Independent Administrative Authorities in Economic Matters*, IDARA, No. 28, 2004, p. 144.

23- Regulation No. 07-01, concerning cases of incompatibility and specific obligations for certain positions and functions, Official Gazette, Issue No. 16, dated March 7, 2007.

2.1- Financial Independence

The financial independence of the board is demonstrated by its reliance on financial resources or grants for funding. The same is true for setting, executing, and managing a budget. It is important to note that not all of these requirements are necessary. This is because the regulator may not have the financial standing. Free from dependence on state funding.²⁴

For independent administrative authorities, financial independence requires that their budget be separate from the state budget and distinct from the ministries that oversee sectors regulated by these authorities. Additionally, they should have independence in setting their financial policies and managing their budget²⁵.

However, it is observed that the state budget remains the dominant source of funding for the budgets of independent administrative authorities, aimed at managing their various affairs. The Banking Board is no exception, as Act No. 23-09 does not specify other funding sources. Article 118 of the Act confirms that the Bank of Algeria is responsible for covering the salaries of the Board members, which are predetermined by decree²⁶.

Although the Banking Board does not enjoy full financial independence, its method of funding does not significantly undermine the principle of organic independence to the extent of compromising it. Funding from the state budget is not without justification; it is a secondary obligation stemming from the state delegating some of its functions to the Board. In this case, achieving the Board's expected objectives necessarily requires the provision of appropriate financial resources²⁷.

Given the specific supervisory and disciplinary role of the Banking Board, certain types of funding sources known to other independent bodies are not feasible. However, in coordination with the banking system's agencies and structures, banking-related funding sources have been adopted, in which banks indirectly contribute, such as through the Deposit Guarantee Corporation²⁸.

2.2- The Absence of Executive Authority from Its Jurisdiction

The Banking Board is considered impartial because it is no longer subordinate to the legislative or judicial branches. The peculiar nature of the powers makes its function and its guarantees of autonomy less difficult for it in the traditional institutional framework of governance, ie. presidential control or management²⁹.

It is worth noting that banking supervision was initially entrusted to the Technical Board of Banking Institutions, which was under the authority of the Minister of Finance, as stipulated by Article 9 of Regulation No. 71-47³⁰. This Board was later dissolved by Act No.

24- Farah, Aisha. *Regulation of Insurance Activity in Algerian Law*, Doctoral Dissertation in Law, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 09/13/2017, p. 44.

25- Boukheira, Hussein. *The Repressive Jurisdiction of Independent Administrative Authorities in the Financial Sector*, Doctoral Dissertation in Law, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2020-2021, p. 258.

26- Article 118 of Law No. 23-09, op. cit.

27- Farahi, Mohamed. *op. cit.*, p. 157.

28- Ibid, p. 158.

29- Boukheira, Hussein. *op. cit.*, p. 9.

30- Article 09 of Regulation No. 71-47, concerning the organization of credit institutions, Official Gazette, Issue No. 55, dated July 6, 1971.

86-12 on the Banking and Credit System, and replaced by the Banking Institutions Supervision Board, according to Article 29³¹, which was also under the Minister of Finance³².

At that time, the Board could not take any corrective measures without consulting the Minister of Finance. This was confirmed by Article 13 of Regulation No. 71-47, which explicitly stated, "The technical Board reviews the conditions, accounts, and budgets of each financial institution and presents them with its remarks and recommendations for approval by the Minister of Finance, who authorizes their publication if necessary³³."

Acts cited above show that the Minister of Finance, as head of the executive branch, has complete control over the Banking Board³⁴. This, however, has changed in light of the requirements of Acts No. 23-09 pertaining to money and banking and Acts No. 90-10 and No. 03-11 pertaining to credit and currency. The executive authority has been excluded from supervising banks and financial institutions, allowing the Board to perform its tasks without any interference from the executive, particularly the Minister of Finance. This shift is one of the key manifestations of the functional independence of the Banking Board.

Additionally, the founding texts of the Banking Board show that the Algerian legislator did not grant the executive authority the ability to amend or revoke the Board's decisions. However, these decisions can be legally challenged, as the legislator has given the Administrative Court of Appeals in Algiers the right to review appeals against some of its decisions, as stipulated in Article 119 of Act No. 23-09 on monetary and banking Act³⁵. This legal recourse does not undermine the Board's independence but rather reinforces it.

Nevertheless, it cannot be said that the Banking Board is completely independent from the executive authority, which can intervene to guide its decisions. In addition, the executive branch keeps tabs on the Board through the yearly banking supervision reports that the governor sends to the President of the Republic in the first quarter after the fiscal year ends³⁶.

2.3- The Preparation of the Internal Regulations by the Banking Board

The ability of an independent authority to establish its internal regulations can be used to assess its functional independence. Internal regulations serve as a legal tool that allows independent administrative authorities to define the technical methods by which they operate³⁷. This is evident in Article 117 of Act No. 23-09 on monetary and banking Act, which stipulates that the Banking Board is responsible for determining its organization and rules of operation³⁸.

The independence in this regard lies in the freedom of independent administrative authorities to choose the set of rules through which they decide how to organize and conduct

31- Article 29 of Regulation No. 86-12, concerning the banking and credit system, Official Gazette, Issue No. 34, dated August 20, 1986.

32- Damoush, Hakima. *The Responsibility of Banks Between Banking Secrecy and Money Laundering*, Doctoral Dissertation in Law, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2017, p. 329.

33- Article 13 of Regulation No. 71-47, op. cit.

34- Boukheira, Hussein. *op. cit.*, p. 264.

35- Article 119 of Law No. 23-09, op. cit.

36- Article 132, op. cit.

37- Farah, Aisha. *op. cit.*, p. 51.

38- Article 117 of Law No. 23-09, op. cit.

their operations, without the involvement of any other body, particularly the executive authority³⁹. This is clearly affirmed in the aforementioned Article 117.

It is worth noting that the Banking Board had previously exercised this right by establishing its internal regulations through Decision No. 93-01, dated February 26, 1993, which includes the internal regulations of the Banking Board (unpublished). This decision contains rules for the disciplinary proceedings before the Board, including provisions related to ensuring the right to defense, setting meeting schedules for Board members, and notifying decisions, among other things⁴⁰. This decision is of great importance due to the value of the rules it introduced and was later amended and supplemented by Decision No. 05-04⁴¹.

2.4- Supervisory and disciplinary powers of the Banking Board

The Banking Board performs its functions without the interference of the Minister of Finance. It uses two main capabilities:

2.4.1- Executive Board

The Board has broad discretion in carrying out its supervisory functions with respect to the entities under its jurisdiction. According to Article 120 of Act No. 23-09, it performs its supervisory functions based on documentation and on-site inspections⁴². Article 121 of the same Act details how this care is carried out:

- Determine the control operations involved.
- Provide deadlines for submission of the assessment section, as well as plans, documents and information deemed necessary.
- Request information, justifications, and evidence crucial to its operations from banks, banks, and other businesses under its control.

The Board commonly critiques and ensures that banks, monetary establishments⁴³, and different regulatory our bodies are adhering to the Acts and guidelines governing banking operations.

2.4.2- Authority for Discipline

Discipline is handiest carried out via the Banking Board to:

- It oversees banks, economic establishments, impartial middlemen, exchange workplaces, and price service companies that have transgressed expert conduct requirements⁴⁴.
- The Board extends its investigations to include financial relationships and contributions between legal entities that directly or indirectly control the supervised entity and its subsidiaries⁴⁵.
- It may also extend its supervisory operations, within the framework of international agreements, to the foreign branches of resident companies⁴⁶.

39- Gharbi, Ahsan. *The Degree of Functional Independence of Independent Administrative Authorities*, *Journal of Research and Human Studies*, University of August 20, 1955, Skikda, Algeria, Issue No. 11, 2015, p. 243.

40- Damoush, Hakima. *The Extent of the Functional Independence of the Banking Board*, National Conference on Independent Regulatory Authorities in the Economic and Financial Fields, University of Abderrahmane Mira, Bejaia, Algeria, May 23-24, 2007, p. 88.

41- Decision No. 2005-04 of April 20, 2005, on the rules of organization and operation of the Banking Board, unpublished.

42- See Article 120 of Law No. 23-09, op. cit.

43- See Article 120, op. cit.

44- See Article 120, paragraph 2, op. cit.

45- See Article 122, op. cit.

46- See Article 122, paragraph 2 of Law No. 23-09, op. cit.

- Entities practicing banking activities without authorization or accreditation.

The Banking Board typically levies fines for infractions of the regulations controlling banking operations. The gravity of the offense determines the gravity of the punishment. In accordance with Articles 123–126 of Act No. 23–09, which governs monetary and banking Act, the consequences can vary from a stern warning to the complete loss of accreditation.

Thus, the Board's punitive authority in the banking sector, specifically in imposing sanctions, is exclusive to the Banking Board, without the involvement of any other party. This reinforces its functional independence⁴⁷.

2.5- The Principle of Professional Secrecy as a Feature Supporting the Independence of the Banking Board

The many functions of the Banking Board have a profound effect on the entire banking system through its decisions. This requires assurance that the Board's activities and performance of its responsibilities are successful and representative of its overall independence. Employee confidentiality is one of these guarantees, and it is important to strengthen the independence of the Banking Board in two ways. First, the Treasury Board is exempt from professional secrecy, as stated in the last paragraph of Article 121: "Professional secrecy shall not be invoked against the Board." This grants the Board a position of strength during its supervisory and inspection operations. Second, the Board's members are protected by the obligation of professional secrecy.

While the wording of Article 133, paragraph 1, of Act No. 23-09 presents professional secrecy as an obligation, it also serves to protect the independence of the Banking Board by allowing its members to refrain from disclosing the activities and results of the investigations conducted by the Board⁴⁸. This principle aligns with the second paragraph of Article 133 of Act No. 23-09, which does not obligate the Banking Board as an entity to adhere to professional secrecy⁴⁹.

Although the wording of Article 133, paragraph 1 of Regulation No. 23-09 presents employee secrecy as an obligation, it also protects the independence of the Banking Board by allowing its members to avoid that activities and results of investigations shall be disclosed to the Board. This principle is consistent with the second paragraph of Article 133 of Act No. 23-09⁵⁰, which does not oblige the Banking Board as an institution to maintain employee confidentiality.

Conclusion:

Our examination of the legislation governing currency and credit, specifically Act No. 23-09 on monetary and banking Act, reveals that the safeguards established in this statute enhance the operational efficacy of the Banking Board members and shield them from political interference in the execution of their responsibilities.

However, despite the legislator's efforts to establish several indicators that ensure the Banking Board's independence in both its organic and functional aspects, true independence has not been fully achieved, leaving its independence as relative.

Based on the above, the following conclusions have been reached:

47- Damoush, Hakima, op. cit., p. 25.

48- See Article 121, last paragraph of Law No. 23-09, op. cit.

49- Farahi, Mohamed, op. cit., pp. 159-160.

50- See Article 133, paragraph 2, op. cit.

- The important role for which the Banking Board was established, namely the supervision of banks and financial institutions, requires a qualified human composition suitable for the tasks assigned to the Board. This is reflected in the Algerian legislator's attempts to amend the Board's human composition in all currency and credit Acts.
- It is clear from the amendments made by the Algerian legislator to the currency and credit Acts that some of them support the principle of the Banking Board's independence, while others negatively affect this principle. This is partially because Algeria's banking industry was only recently opened to both domestic and foreign banks, and the Banking Board's delicate duties require specialized knowledge.
- One way to combat corruption, bribery and favoritism in the banking industry is to make the positions of governors and their deputies inconsistent with any public office or mandate they elect.

The physical and functional independence of the Treasury Board can be further strengthened by implementing the following recommendations, based on these observations and observations:

- The tenure of the Chairman, including whether renewable.
- Established a minimum specifying the circumstances under which Board members' duties will terminate.
- Except in rare cases, the Banking Boards should be allowed to fund their operations independent of public funds.
- Given the importance of Boards in the business of investment banking, we must return evaluate the formation and strengthening of Boards by bringing together qualified faculty members from universities related to banking. This unites them, the judiciary and the practical side of economics and finance experts.

List of references:

1- Acts:

- Regulation No. 71-47, dated July 30, 1971, concerning the organization of credit institutions, Official Gazette, Issue No. 55, dated July 6, 1971.
- Regulation No. 86-12, dated August 19, 1986, concerning the banking and credit system, Official Gazette, Issue No. 34, dated August 20, 1986.
- Regulation No. 03-11, dated August 26, 2003, concerning currency and credit, Official Gazette, Issue No. 52, dated August 27, 2003.
- Regulation No. 07-01, dated March 1, 2007, concerning cases of incompatibility and specific obligations for certain positions and functions, Official Gazette, Issue No. 16, dated March 7, 2007.
- Regulation No. 10-04, dated August 26, 2010, amending and supplementing Regulation No. 03-11, dated August 26, 2003, concerning currency and credit, Official Gazette, Issue No. 50, dated September 1, 2010.
- Act No. 90-10, dated April 14, 1990, concerning currency and credit, Official Gazette, Issue No. 16, dated April 18, 1990.
- Act No. 02-01, dated February 5, 2002, concerning electricity and gas, Official Gazette, Issue No. 08, dated February 6, 2002.

- Act No. 23-09, dated June 21, 2023, concerning monetary and banking Act, Official Gazette, Issue No. 43, dated June 27, 2023.

2- Books:

- Ahmed Beloudenine, *A Brief on Algerian Banking Act*, Balqis Publishing House, Algeria, 2003.
- Ajroud Wafaa, *The Banking Board and the Regulation of Banking Activity*, Al-Hamed Publishing House, First Edition, Amman, 2014.
- Samir Lahham Rana, *Independent Administrative Authorities*, First Edition, Al-Halabi Legal Publications, Lebanon, 2015.
- Zouaimia, Rachid. *The Repressive Functions of Independent Administrative Authorities Ruling in Economic Matters*, IDARA, No. 28, 2004.

3- Theses:

- Boukheira Hussein, *The Repressive Jurisdiction of Independent Administrative Authorities in the Financial Sector*, Doctoral Dissertation in Act, Faculty of Act and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2020-2021.
- Damoush Hakima, *The Responsibility of Banks Between Banking Secrecy and Money Laundering*, Doctoral Dissertation in Act, Faculty of Act and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2017.
- Farah Aisha, *Regulation of Insurance Activity in Algerian Act*, Doctoral Dissertation in Act, Mouloud Mammeri University, Tizi Ouzou, Algeria, September 13, 2017.
- Aarab Ahmed, *Independent Administrative Authorities in the Banking Sector*, Master's Thesis, Business Act, Mentouri University, Constantine, Algeria, 2007.
- Belaid Jamila, *Bank Supervision and Financial Institutions*, Master's Thesis, Business Act, Faculty of Act and Political Science, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2001-2002.
- Dib Nadira, *The Independence of Independent Regulatory Authorities in Algerian Act*, Master's Thesis in Public Act, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2011-2012.

4- Articles:

- Gharbi Ahsan, *The Degree of Functional Independence of Independent Administrative Authorities*, *Journal of Research and Human Studies*, University of August 20, 1955, Skikda, Algeria, Issue No. 11, 2015.
- Farahi Mohamed, *The Impact of Amendments to the Currency and Credit Act on the Composition and Independence of the Banking Board*, *Journal of Legal and Political Research*, Issue No. 9, December 2017.

5- Conferences:

- Damoush Hakima, *The Extent of the Functional Independence of the Banking Board*, National Conference on Independent Regulatory Authorities in the Economic and Financial Fields, University of Abderrahmane Mira, Bejaia, Algeria, May 23-24, 2007.
- Rachdi Saida, *The Concept of Independent Administrative Authorities*, National Conference on Independent Regulatory Authorities in the Economic and Financial Fields, Faculty of Act, University of Abderrahmane Mira, Bejaia, Algeria, May 23-24, 2007.