

# THE HIGHER AUTHORITY FOR TRANSPARENCY, PREVENTION, AND COMBATING CORRUPTION AS A CONSTITUTIONAL MECHANISM IN ALGERIA.

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## Abstract:

*This study aims to examine the Higher Authority for Transparency, Prevention, and Combating Corruption as a new regulatory institution established under Article 204 of the amended 2020 Constitution. This authority is tasked with transparency, prevention, and combating corruption, replacing the National Authority for the Prevention and Combating of Corruption. The study begins by exploring its conceptual framework, defining its structure and organization. It then delves into its powers as stipulated in the 2020 Constitution and those outlined in Law 08\_22. Ultimately, the study concludes with the necessity of enhancing the independence of the Higher Authority through the election of its members and expanding its punitive powers, all while establishing a coordination mechanism between the Higher Authority and the Central Office for Combating Corruption"*

**Keywords:** *the Higher Authority. Corruption , Transparency and Integrity. Combating.*

## 1. INTRODUCTION

Corruption is a phenomenon of human behavior that has troubled human societies and governments since ancient times and continues to do so. It is an unethical human behavior that constitutes a deviation from the law and aims to achieve personal gain at the expense of the public interest.

Despite the various definitions proposed for it, the idea of "misusing public authority or public office for personal gain" is central to all of these definitions, whether those gains are financial or social in nature. This includes behaviors such as bribery, nepotism, and the misuse of public resources for personal purposes. Corruption reflects its impact on the performance and independence of public functions<sup>1</sup>Corruption has become one of the greatest challenges threatening the political and social stability of countries and hindering their sustainable development. Algeria is not immune to this scourge, and to prevent it, it has joined several international agreements, most notably the United Nations Convention against Corruption of 2003. Algeria ratified this convention and subsequently passed Law No. 01-06, which deals with the prevention and combating of corruption. Under its provisions, the National Authority for the Prevention of Corruption and the Fight against It was established as an administrative authority under the authority of the President of the Republic. This authority was further defined and structured through constitutional amendments in 2016<sup>3</sup> Under Article 202, as a constitutional advisory institution placed within the third chapter titled "Consultative Institutions," the authority is specifically tasked with proposing a comprehensive policy for preventing corruption and promoting the principles of the rule of law, reflecting integrity, transparency, and accountability in managing public assets and funds, and contributing to their implementation.

However, this authority remained largely symbolic and was unable to effectively combat the phenomenon of corruption, as corruption continued to persist in various sectors. Algeria ranked 117th out of 180 countries in the international Corruption Perceptions Index according to the Transparency International report for the year 2021.<sup>4</sup>

In 2020, a new regulatory institution was established in Algeria, tasked with transparency, prevention, and combating corruption. This institution was created under Articles 204 and 205 of

the constitutional amendment of 2020, replacing the National Authority for the Prevention of Corruption, in addition to the Central Office for Combating Corruption".<sup>5</sup>

This development aligns with commitments made by the President of the Republic, adheres to constitutional provisions, and aligns the legal framework with international standards, including the United Nations Convention against Corruption ratified in 2004, the African Union Convention on Preventing and Combating Corruption ratified in 2006, and the Arab Anti-Corruption Convention ratified in 2014.

The legislator subsequently enacted Law No. 08-22, which defines the organization, structure, and powers of the Supreme Authority for Transparency, Prevention, and Combating Corruption.<sup>6</sup>

Based on the information provided, we address the following fundamental questions: **What is the Higher Authority? What are its main powers and responsibilities? Did the Algerian legislator succeed in establishing it as an institutional mechanism for preventing and combating corruption?** To answer these questions, the research is divided into two sections. In the first section, we delve into the nature of the Supreme Authority and divide it into two inquiries. The first inquiry explores the definition of the authority, while the second is dedicated to studying its formation and organization.

In the second section, we focus on examining its powers by studying the powers stipulated in the constitution in the first inquiry and those outlined in Law 08-22 in the second inquiry.

## **2. Conceptual Framework of the High Authority for Transparency, Prevention, and Combating Corruption"**

In this chapter, we will address the topic of the Supreme Authority for Transparency, Prevention, and Combating Corruption by defining it and studying its formation and organization. We will analyze the conceptual framework surrounding this authority, understanding its concept and structure. Here are the main points we will cover in this chapter:

### **2.1 The Definition of the Higher Authority for Transparency, Prevention, and Combatting of Corruption"**

One of the most costly and possibly effective mechanisms in combating corruption is the establishment of a dedicated anti-corruption body. This is affirmed by the United Nations Convention against Corruption under Article 6, titled "Preventive anti-corruption bodies or authorities," which states: "Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption..."

This is precisely what the Algerian legislator did initially when they created the Anti-Corruption Prevention Authority under Article 17 of Law No. 06-01, which reads: "A national authority responsible for preventing and combating corruption is established to implement the national strategy in the field of anti-corruption..." It was an administrative authority under the President of the Republic and was not mentioned in the constitution until 2016, as per the constitutional amendment.

The constitutional founder returned in 2020, as a continuation of the institutional framework, to classify the Supreme Authority for Transparency, Prevention, and Combating Corruption within the oversight institutions. This was done under the title "Institutional Control" in the fourth chapter, which states: "Constitutional institutions and oversight bodies are tasked with investigating compliance with legislative and regulatory work with the constitution, as well as the methods of using public resources and managing them."

By virtue of Articles 204 and 205 in the fourth chapter titled "The Supreme Authority for Transparency, Prevention, and Combating Corruption," a new oversight institution was established, responsible for transparency, prevention, and combating corruption. This institution replaced the National Anti-Corruption Authority, which had proven ineffective in addressing the issue of corruption, especially within official government circles, colloquially known as "the big fish and the small fish."<sup>7</sup>



In alignment with the adaptation of the legal framework to the provisions of the constitution, the legislator enacted Law No. 22-08 with the aim of defining the organization, formation, and powers of the Supreme Authority for Transparency, Prevention, and Combating Corruption.

This law was enacted based on the practical experience gained in our country in the field of preventing and combating corruption over a period of 15 years of implementing Law No. 06-01. Despite the limited nature of this experience due to legal and political reasons, especially with the emergence of significant political and financial corruption cases in recent years, it draws its reference from the presidential program, which considers upholding public ethics and combating corruption as top priorities.

The provisions of this law are derived from the constitution and various international and regional mechanisms and agreements to which Algeria has acceded in the field of preventing and combating corruption. These include the United Nations Convention against Corruption of 2003, the Arab Anti-Corruption Convention of 2010, and the African Union Convention on Preventing and Combating Corruption of 2003.<sup>8</sup>

Article 2 of the aforementioned law defines the Supreme Authority as an "independent entity with legal personality and financial and administrative independence," headquartered in Algiers. Its primary aim is to achieve the highest levels of integrity and transparency in the management of public affairs, as stipulated in the first paragraph of Article 4 of the law.

Similarly, Article 204 of the constitution regards it as an independent institution with a specific mandate included within the oversight institutions. This mandate involves investigating the use and management of public resources and funds.

Thus, it can be said that the constitutional founder established a new category represented by independent public authorities, which share common characteristics with administrative independent authorities while also differing from them. These authorities are established under the provisions of the constitution. This applies not only to the Supreme Authority for Transparency, Prevention, and Combating Corruption but also to the National Independent Authority for Elections.<sup>9</sup>

. Accordingly, the Supreme Authority in Algeria enjoys independence as it is an institution with legal personality and financial independence. This aligns with the provisions of Article 18, which was repealed from Law 06\_01. The National Authority was considered an independent administrative authority with legal personality and financial independence. As a result, it had the right to litigate and represent itself before judicial authorities.<sup>10</sup>

In the same context, Law 08\_22, in its fourth chapter titled "Financial Provisions," aligns the financial provisions applicable to the Supreme Authority with those applied to independent authorities. The law specifies that the Supreme Authority shall have a separate budget included in the state's general budget. The President of the Authority is responsible for expenditure, and the state provides it with all necessary resources and personnel for its effective operation. The expenditure of this budget is subject to the oversight of relevant state bodies.

It's worth noting that including the Supreme Authority's budget within the state's general budget means that all funds it receives are subject to both prior and subsequent financial oversight. Consequently, its financial independence is somewhat formal, as it remains under the purview of the executive authority.<sup>11</sup>

Furthermore, the Supreme Authority enjoys administrative independence in accordance with the provisions of Article 2 of the same law. It's noteworthy that the legislator emphasized its status as an independent authority. This represents a new approach in the exercise of public authority, as it possesses the autonomy to make decisions and combines both managerial and oversight functions.

## 2.2 "The Formation and Organization of the Higher Authority"

The legislator, under Article 16 of Law 08-22 and subsequent provisions, as well as Presidential Decree No. 234-23, addressed the composition and organization of the Supreme Authority.<sup>12</sup> It consists of two main components: the President of the Supreme Authority and the Council of the Supreme Authority. Additionally, it includes various supporting structures and bodies.



### 2.2.1 "The Entities of the Higher Authority

#### A. "The President of the Higher Authority

In accordance with Article 21 of Law 08-22, the President of the Supreme Authority is appointed by the President of the Republic for a term of five years, renewable once. This term of office is incompatible with any electoral mandate, position, or other professional activity.

The President serves as the legal representative of the Supreme Authority, and Article 22 of Law 08-22 entrusts them with the authority to perform various tasks:

1. **Preparing the National Strategy for Transparency, Prevention, and Combating Corruption:** The President is responsible for drafting the national strategy and ensuring its implementation and monitoring.
2. **Preparing the Action Plan of the Supreme Authority:** The President is tasked with developing the action plan for the Supreme Authority.
3. **Exercising peaceful authority over all employees:** The President has authority over all employees of the Supreme Authority.
4. **Preparing the Basic Law for the Employees of the Supreme Authority:** The President is responsible for drafting the fundamental law governing the employees of the Supreme Authority.
5. **Managing the proceedings of the Council of the Supreme Authority:** The President oversees and manages the activities and proceedings of the Council.
6. **Preparing the annual budget:** The President is responsible for drafting the annual budget of the Supreme Authority.
7. **Preparing the annual report:** The President prepares the annual report of the Supreme Authority and submits it to the President of the Republic after it has been approved by the Council.
8. **Referring cases potentially involving criminal offenses to the relevant regional prosecutor general:** The President has the authority to refer cases with possible criminal implications to the appropriate regional prosecutor general and cases involving mismanagement to the President of the Audit Board.
9. **Enhancing cooperation with anti-corruption bodies at the international level:** The President works on developing cooperation with international anti-corruption bodies and exchanging information with them.
10. **Regularly informing the Council:** The President periodically reports to the Council on all reports or notifications received and the measures taken regarding them.

These responsibilities empower the President of the Supreme Authority to lead efforts in preventing and combating corruption and promoting transparency in public affairs.

#### B. "The Council of the Higher Authority"

The composition of the Council of the Supreme Authority is detailed in Article 23 of Law 08-22 and subsequent articles:

. **Members:** According to Article 23, the Council of the Supreme Authority consists of:

- Three members chosen by the President of the Republic from among independent national figures.
- Three judges, one from the Supreme Court, one from the Council of State, and one from the Council of Auditors. They are selected respectively by the Higher Council of the Judiciary, the Council of State Judges, and the Council of Auditors.
- Three independent individuals selected based on their competence in financial or legal matters, integrity, and experience in the field of preventing and combating corruption. They are chosen by the President of the Council of the Nation, the President of the National People's Congress, and the Prime Minister or Head of Government, depending on the situation.
- Three individuals from civil society known for their interest in issues related to corruption prevention and combating. They are chosen by the President of the National Civil Society Observatory.

. **Term:** As per Article 24 of the same law, Council members are appointed for a non-renewable term of five years.

This composition of the Council of the Supreme Authority ensures a balance of representation from

various sectors and organizations and promotes its independence by involving multiple authorities and organizations in the selection of its members. This approach aims to enhance the credibility and effectiveness of the Supreme Authority in addressing issues related to corruption prevention and combating...<sup>13</sup>.

What can also be noticed through the study of the composition of the High Authority and its membership:

- Regarding the age requirements, it is entirely unclear what the minimum and maximum age for membership in this authority are.
- It is evident that all three authorities had a say in the proposal, so why not involve the fourth authority, "the media," given its significant role in combating corruption?
- The absence of clear criteria for national figures.
- Concerning the members from civil society, it would have been more appropriate to establish competence criteria in financial, legal, and administrative matters to qualify them for this role.
- It would have been more appropriate for a portion of the High Authority members to be elected, or at least have their members chosen through an election process, to ensure complete independence between supervisory institutions and other authorities.

#### **\_ The tasks of the Supreme Authority Council.**

The Council has several responsibilities defined by Article 29 of the aforementioned law:

1. Approving the internal regulations of the High Authority.
2. Reviewing cases that may involve corrupt activities and are presented by the President of the High Authority.
3. Providing opinions on matters presented by the government, parliament, or any other institution or organization that falls under the jurisdiction of the High Authority.
4. Approving the annual report of the activities of the High Authority.
5. Expressing opinions on cooperation projects in the field of corruption prevention and combating corruption with international organizations and entities.

**2.2.2 Structures of the High Authority** :In accordance with Article 18 of Law 08\_22, which states that "the High Authority includes structures determined by regulation," and Article 17, which stipulates that "the High Authority shall be provided with a specialized structure for administrative and financial investigation into the illicit enrichment of public officials," and conditions and procedures for implementing this article through regulation, Presidential Decree No. 234\_23 specifies the structures of the High Authority for Transparency, Prevention, and Combating Corruption.

According to Article 2 of the Presidential Decree, the organization of the High Authority includes the following structures under the authority of the President of the High Authority:

**A/ General Secretariat led by a Secretary-General:** The Secretary-General, as specified in Article 4 of the Presidential Decree, is appointed under the authority of the President of the High Authority and is responsible for:

1. Activating and coordinating the work of the High Authority's structures.
2. Ensuring the organization and proper functioning of the High Authority's services.
3. Implementing the budget of the High Authority.
4. Coordinating the preparation of the annual report of the High Authority.
5. Preparing and organizing the work of the High Authority's council.
6. Ensuring the secretariat of the council.
7. Implementing the decisions of the High Authority and monitoring them.

The Secretary-General is assisted by three (3) sub-directorates:

A. Sub-directorate for Human Resources and Public Resources, responsible for developing a human resources management plan and training programs and ensuring their implementation. B. Sub-directorate for Budget and Accounting, responsible for proposing the financial needs of the High

Authority and evaluating them. C. Sub-directorate for Information Technology, Documents, and Archives, responsible for developing IT tools and integrating modern technologies within the High Authority.

**B/ Department of Declarations of Property, Compliance, Notifications, and Reports:** Article 6 of the decree defines the powers of this department, which include:

- Receiving declarations of property from public officials subject to mandatory property declaration, ensuring their processing and monitoring. Ensuring compliance with adherence to transparency, anti-corruption, and integrity standards, as well as the rules of probity.
- Receiving notifications and reports related to corruption issues and processing them in accordance with current legislation and regulations.
- Collecting, organizing, and utilizing information.
- Preparing periodic reports on its activities.

This department includes two directorates:

1. Directorate for Managing and Processing Property Declarations.
2. Directorate for Compliance, Notifications, and Reports.

**C/ The Awareness, Training, and Cooperation Department,** in accordance with Article 7 of the decree, is tasked with several important functions, including:

- Raising awareness about the dangers and consequences of corruption and promoting a culture of rejection and ethical public life.
- Enhancing the capacities of public servants and civil society in the field of combating corruption.
- Conducting studies and ensuring legal vigilance related to transparency, anti-corruption efforts, and prevention.
- Promoting and developing international and regional cooperation.

This department plays a crucial role in fostering a culture of transparency and integrity while also providing training and awareness programs to combat corruption effectively.

**D/ The specialized structure for administrative and financial investigations into illicit enrichment of public officials,** as outlined by the Algerian legislator under Article 8 of the decree, has specific responsibilities, including:

- Conducting investigations and gathering evidence in cases of illicit enrichment of public officials.
- Coordinating with other specialized bodies in the field of investigations.
- Preparing an investigation program and submitting it to the head of the Supreme Authority.
- Proposing any measures aimed at ensuring the proper conduct of investigations carried out by the specialized structure to the head of the Supreme Authority.
- Collecting and centralizing documents and information related to the illicit enrichment of public officials and verifying their accuracy.

### **3. Powers of the Supreme Authority**

#### **3.1 Powers Specified in the Constitution**

In accordance with Article 205 of the Constitution, the Supreme Authority for Transparency and Prevention of Corruption is entrusted with the following responsibilities:

1. Developing a national strategy for transparency, prevention of corruption, and its combat, and overseeing its implementation and monitoring.
2. Gathering, processing, and reporting information related to its specific jurisdiction, and making it available to the relevant bodies.
3. Notifying the Audit Council and the competent judicial authorities whenever it identifies violations and, when necessary, issuing directives to the relevant institutions and bodies.
4. Contributing to strengthening the capacities of civil society and other stakeholders in the field of anti-corruption.
5. Monitoring, implementing, and promoting a culture of transparency, prevention, and anti-

corruption.

6. Providing opinions on legal texts relevant to its jurisdiction, thereby confirming its advisory role.<sup>14</sup>
7. Participating in the training of personnel responsible for transparency, prevention, and anti-corruption.
8. Contributing to fostering public life and enhancing the principles of transparency, good governance, prevention, and anti-corruption.

### 3.2 Jurisdictions of the Supreme Authority for Transparency and Prevention of Corruption as per Law 08\_22.

The legislator has vested the Supreme Authority with a range of powers, some of which are preventive in nature, while others are of a supervisory nature, pursuant to Article 4 of Law 08\_22 and its subsequent provisions.

#### 3.2.1 Preventive Powers

The primary objective of the Supreme Authority is to achieve the highest levels of integrity and transparency in the management of public affairs, as stipulated by Algerian legislation in Article 4. In the realm of prevention, it is responsible for:

1. Gathering, centralizing, exploiting, and disseminating any information and recommendations that can assist public administrations and natural or legal persons in preventing and exposing corrupt practices.
2. Conducting periodic assessments of legal instruments related to transparency, prevention of corruption, and its combat, as well as administrative measures and their effectiveness in the field of transparency, prevention, and anti-corruption, and proposing appropriate mechanisms for improvement.
3. Ensuring coordination and monitoring of activities and initiatives related to the prevention and combat of corruption, based on regular and systematic reports supported by statistics and analyses, provided by the relevant sectors and stakeholders.

**Civil Society Engagement:** This is what Article 13 of the United Nations Convention against Corruption stipulates, emphasizing the necessity of encouraging individuals and groups not affiliated with the public sector to participate actively in activities aimed at preventing and combating corruption. Civil society refers to the collective of organizations, associations, and grassroots movements that individuals choose to join and engage with, with the aim of achieving economic, political, cultural, demographic, or general objectives.<sup>15</sup>

And similarly, such associations, professional institutions, and media entities... As a result, within the framework of promoting the role of civil society and engaging it in the fight against corruption, the Supreme Authority takes the initiative to establish an interactive network aimed at enhancing its involvement.

It works to enhance transparency and integrity in regulating charitable, religious, cultural, and sports activities, as well as in public and private institutions, by preparing and implementing appropriate systems to prevent and combat corruption. Given that corruption has international implications, the legislator stipulates in paragraph seven of Article four that the Supreme Authority is responsible for developing cooperation with anti-corruption bodies and organizations at both regional and international levels.

Furthermore, it is responsible for preparing periodic reports on the implementation of measures and procedures related to the prevention and combat of corruption, as required by international agreements. It also establishes a systematic and methodological approach for exchanging information with its counterparts at the international level and with relevant agencies and authorities involved in anti-corruption efforts.

Through a review of the legal texts regulating the powers of the Supreme Authority, several observations can be made, and as some have aptly described, these powers can be seen as symbolic, which is indeed the case<sup>16</sup>. It becomes nearly impossible to exercise these powers for several reasons, among the most significant being:

1. Excessive Multiplicity of Granted Powers: The Supreme Authority is endowed with an excessive number of powers, which may ultimately lead to its paralysis.
2. Establishment of the Central Bureau for Combating Corruption: Law No. 05-10, as an amendment to Law No. 06\_01 related to corruption prevention, introduced the Central Bureau for Combating Corruption. The composition and organization of this bureau were specified by Presidential Decree No. 426-11, and it was placed under the supervision of the Ministry of Finance<sup>17</sup>. However, the law did not clarify its jurisdiction in relation to the newly established Supreme Authority alongside the Central Office for Combating Corruption". With the accumulation of overlapping powers, it is likely that there will be a conflict of competencies and a freeze in the functioning of both bodies. This situation may lead to overlapping and conflicting jurisdictions between the mentioned institutions.<sup>18</sup>
3. Contradiction between Legal Provisions and their Real-World Implementation: There is often a contradiction between what legal rules prescribe and their actual implementation by public authorities, who may not adhere to these regulations. This discrepancy is often described as a **mere cosmetic application of legal principles**<sup>19</sup>.

In conclusion, it appears that the extensive and potentially conflicting powers granted to the Supreme Authority, alongside the existence of the Central Bureau for Combating Corruption, have led to a situation where the effectiveness of these institutions in combating corruption may be hindered rather than facilitated. The multiplicity of powers, lack of clear demarcation of responsibilities, and discrepancies between legal provisions and their practical application all contribute to the perception of a symbolic rather than effective anti-corruption effort.

### **3.2.2 Regulatory Competencies According to Law 08\_22, the Supreme Authority has a set of regulatory competencies:**

\_The Supreme Authority is responsible for monitoring the extent to which public administrations, local authorities, public institutions, economic institutions, associations, and other institutions comply with the regulations related to transparency, corruption prevention, and anti-corruption. It ensures the existence of these regulations, assesses their quality, effectiveness, and implementation suitability, and issues recommendations aimed at assisting them in developing appropriate measures and procedures for each educational institution to help institutions adhere to the highest levels of integrity.

\_Issuing Recommendations: In accordance with Article 9 of the same law, when the Supreme Authority observes, either on its own initiative or after being notified, the violation of the quality and effectiveness of procedures implemented within public bodies, administrations, associations, and institutions related to preventing and exposing corruption, it issues recommendations to take corrective actions to address these violations within a specified timeframe. Institutions and relevant authorities are required to report on the extent of their compliance with these recommendations.

In cases of non-response or inadequacy, the Supreme Authority may issue an order to the institution or authority concerned, compelling them to implement the recommendations within a period not exceeding one year. If the institution or authority does not comply with the order, the Supreme Authority will notify the relevant authorities to take appropriate actions.

It is observed from this article that the Supreme Authority provides recommendations only, and these recommendations, as is well known, do not carry a mandatory nature. This contradicts the idea of the Supreme Authority as an enforcing body under this law. Therefore, the focus should have been on strengthening the content rather than just changing the titles.

On the other hand, taking appropriate actions after one year may not be effective in addressing corruption issues, and there could be significant delays due to bureaucracy, which could have adverse effects.

Additionally, according to Article 10 of Law 08\_22, when the Supreme Authority notices a breach of rules related to integrity, it can issue a warning if the responses provided are not satisfactory. It can also issue orders in case of delays in submitting declarations, deficiencies, inaccuracies in their content, or failure to respond to requests for clarification.



If there are serious indications of unjustified enrichment of a public employee, the Supreme Authority, according to Article 11, can report to the Prosecutor at the Sidi M'hamed Court to issue freezing measures for bank transactions or asset seizures for a period of three months through a judicial order issued by the court's president. This order is subject to objection or appeal, ensuring the right to defense and adhering to the principle of litigation at two levels.

The precautionary measures are communicated to the executing authorities and can be appealed to the same authority that issued them within five days of notification to the concerned party. The decision to lift or extend the precautionary measures is made automatically by the court's president or upon the request of the Prosecutor.

According to Article 12 of the same law, the Supreme Authority notifies the regional Prosecutor when it becomes aware of facts that could potentially be subject to criminal prosecution. It also informs the Court of Auditors if it becomes aware of actions falling within its jurisdiction.

It's worth noting that the legislator has considered the non-interference between the powers of the Supreme Authority and other authorities responsible for corruption prevention and combating, especially the judiciary and the Court of Auditors.

**Receiving Property Declarations:** One of the most important future competencies of the Supreme Authority is to receive, process, and monitor property declarations. This is stipulated in the third paragraph of Article 4 of Law 08\_22.

**Receiving Reports or Notifications:** As per Article 6 of Law 08\_22, the Supreme Authority can receive reports or notifications from any natural or legal person who has information, data, or evidence related to corrupt practices. These reports or notifications must be in writing, signed, and contain elements related to corrupt acts and sufficient information to identify the informer or notifier.

1. Article 6 of Law 08\_22 allows individuals to notify or report corruption-related information to the Supreme Authority. However, the use of the term "may" suggests that this reporting is optional. Ideally, reporting should be considered a duty in corruption cases, and failure to report could be seen as a form of complicity. The legislator also requires the informer to reveal their identity, which could discourage many potential informers despite having significant evidence of corruption. It might have been more appropriate to leave it to the Supreme Authority to assess the seriousness of the report.

2. **Protection of Informants:** The last paragraph of the same article addresses the protection of informants and whistleblowers according to specific laws. Law 06\_01, Article 45, states that anyone who seeks revenge, intimidates, threatens, or takes any action against witnesses, experts, victims, informants, or their families can be punished with imprisonment and fines.

**Administrative and Financial Investigations:** Law 08\_22 establishes specialized structures for conducting administrative and financial investigations into cases of unexplained wealth acquired by public officials who cannot justify a significant increase in their financial assets.<sup>20</sup>

#### 4. CONCLUSION

In conclusion, the establishment of the Higher Authority as a supervisory institution, along with its structure, falls within the fundamental pillars of consolidating a state of institutions. It serves as the final checkpoint in completing the institutional framework. This initiative has been a priority for the President of the Republic. Corruption, in recent years, has posed a significant challenge to Algeria and remains a formidable obstacle to achieving true development.

##### **The study has yielded the following results:**

The new Law 08\_22 came in line with the constitutional amendment, where the Higher Authority for Transparency was established and included in the fourth chapter of the constitution, as one of the oversight institutions, after previously being classified as a consultative body under the name "National Authority."

The legislator granted the Higher Authority various legal powers, including preventive and oversight powers, most notably "administrative and financial investigations into manifestations of unjust enrichment among public officials." In addition, the Authority was endowed with extensive constitutional powers to develop a national strategy for transparency, prevention, and combating

corruption.

This elevation by the legislator transformed the role of the Authority from being advisory to becoming an oversight body.

The composition of the Higher Authority's Council was expanded to include representatives from civil society, recognizing the significant role that civil society can play as a crucial partner in the fight against corruption, alongside judges and national figures.

The method of appointment rather than election dominates the Higher Authority and raises questions about the extent of executive influence, which remains a subject of ongoing scrutiny.

Notably, the Higher Authority's content lacks a punitive dimension, which was absent in the National Authority.

The protection of whistleblowers and informants is crucial, as any form of retaliation, intimidation, or threat against them is a criminal offense.

**Here are some recommendations that can be proposed in this context:**

1. Emphasize the independence of the Higher Authority in carrying out its mandated tasks of prevention and combating corruption.
2. Establish a mechanism for coordination between the Higher Authority and the Central Anti-Corruption Bureau.
3. Strengthen the role of the Higher Authority and grant it punitive, deterrent, and enforcement powers to enable it to perform its duties under suitable conditions.
4. Develop a comprehensive digital system to track expenditures, revenues, and their sources.
5. Implement appropriate training and development programs for members of the Higher Authority, taking into consideration specialization and expertise.
6. Intensify both pre- and post-audits in all institutions and bodies to curb the corruption phenomenon.
7. Publish all activities carried out on the official website of the Authority to raise public awareness of the risks of corruption and how to prevent it.
8. Involve the Constitutional Court in monitoring the membership criteria of this Higher Authority.
9. Enhance the independence of the Higher Authority by introducing an electoral process for selecting its members.

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- [21] <sup>1</sup> 'Alī Zayd al-Zu'bī, wāqī' al-mujtama' al-madanī al-'Arabī wa mstqblh, Majallat al-'Ulūm al-ijtimā'iyah, al-mujallad 35 al-'adad 1, Majlis al-Nashr al-'Ilmī, Jāmi'at al-Kuwayt, 2007
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- [24] .4'Uthmān ḥwydq, Muḥammad Limīn Salkh, al-nizām al-qānūnī lil-sulṭah al-'Ulyā llshfāfyh wa al-wiqāyah min al-fasād wmkāfhth, Majallat al-'Ulūm al-qānūnīyah wa al-siyāsīyah, al-mujallad 13, al-'adad 1, Jāmi'at al-Jāmi'ah al-Wādī, 2022.
- [25] Umayrī Aḥmad, "akhlq al-ḥayāh al-'Āmmah wa-ta'zīz Mabādi' al-shafāfiyah ṭibqan lil-ta'dīl al-dustūrī li-sanat, 2020 al-Sulṭah al-'Ulyā llshfāfyh wa-al-wiqāyah min al-fasād namūdhajan", Majallat al-Buḥūth fī al-Ḥuqūq wa-al-'Ulūm al-siyāsīyah, al-mujallad, 7 'adad 1, Jāmi'at tyārt, 2021.,
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<sup>2</sup> Loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative A la prévention et A la lutte contre la corruption : N 14

<sup>3</sup> Loi n° 16-01 du 26 Joumada El Oula 1437 correspondant au 6 mars 2016 portant révision constitutionnelle. 14.

<sup>4</sup> <https://www.transparency.org/en/cpi/2021/index/dza>

<sup>5</sup> -Ordonnance n° 10-05 du 16 Ramadhan 1431 correspondant au 26 août 2010 complétant la loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative A la prévention et A la lutte contre la corruption

<sup>6</sup> Loi n° 22-08 du 4 Chaoual 1443 correspondant au 5 mai 2022 fixant l'organisation, la composition et les attributions de la Haute autorité de transparence, de prévention et de lutte contre la corruption

<sup>7</sup> al-Majlis al-sha'bi al-Waṭanī, al-fatrah al-tashrī'iyah al-tāsi'ah,, Dawrat al-barlamān al-'ādiyah 2021, 2022, Jarīdat Rasmīyah llnāqshāt, raqm 56, 19' fryl 2022.

<sup>8</sup> al-Majlis al-sha'bi al-Waṭanī, al-fatrah al-tashrī'iyah al-tāsi'ah,, Dawrat al-barlamān al-'ādiyah 2021, 2022, Jarīdat Rasmīyah llnāqshāt, raqm 55, 19' fryl 2022, P 3

<sup>9</sup> While at the same time, it differs from the concept of independent public authorities established by the French legislature, as it only distinguishes itself by granting them legal personality.

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Jacques Chevallier , Autorités administratives indépendantes et État de droit , *Civitas Europa* 2016/2 (N° 37), pages 143 à 154

<sup>10</sup> Uthmān ḥwydq, Muḥammad Limīn Salkh, al-nizām al-qānūnī lil-sulṭah al-'Ulyā lshfāfyh wa al-wiqāyah min al-fasād wmkāfhth, Majallat al-'Ulūm al-qānūniyah wa al-siyāsīyah, al-mujallad 13, al-'adad 1, Jāmi'at al-Jāmi'ah al-Wādī, 2022. P 475

<sup>11</sup> IBID

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<sup>12</sup> Décret présidentiel n° 23-234 du 9 Dhou El Hidja 1444 correspondant au 27 juin 2023 fixant les structures de la Haute autorité de transparence, de prévention et de lutte contre la corruption.N 45

<sup>13</sup> Zwāymyḥ Rashīd, OP? CIT, P 16

<sup>14</sup> Umayrī Aḥmad, "akhlq al-ḥayāh al-'Āmmah wa-ta'zīz Mabādi' al-shafāfiyah ṭibqan lil-ta'dīl al-dustūrī li-sanat, 2020 al-Sulṭah al-'Ulyā lshfāfyh wa-al-wiqāyah min al-fasād namūdhajan", Majallat al-Buḥūth fī al-Ḥuqūq wa-al-'Ulūm al-siyāsīyah, al-mujallad, 7 'adad 1, Jāmi'at tyārt, 2021, P 70

<sup>15</sup> Alī Zayd al-Zu'bi, wāqi' al-mujtama' al-madanī al-'Arabī wa mstqblh, Majallat al-'Ulūm al-ijtimā'iyah, al-mujallad 35 al-'adad 1, Majlis al-Nashr al-'Ilmī, Jāmi'at al-Kuwayt, 2007, P 20. Najjār alwyzh, "Dawr al-'ālam wa-al-mujtama' al-madanī fī Mukāfaḥat al-fasād", al-tawāṣul, Jāmi'at 'Annābah, al-mujallad, 24 'adad, 1, 2018 P P 87 \_ 104

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<sup>16</sup> Zwāymyḥ Rashīd, OP.CIT, P26

<sup>17</sup> Official Journal of Discussions, No. 55, op. cit., p. 21



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<sup>19</sup> Zwāymyh Rashīd, OP.CIT, P26

<sup>20</sup> ART 5. Loi n° 22-08 du 4 Chaoual 1443 correspondant au 5 mai 2022 fixant l’organisation, la composition et les attributions de la Haute autorité de transparence, de prévention et de lutte contre la corruption