

# THE REALITY OF FINANCIAL AND ADMINISTRATIVE CORRUPTION IN ALGERIA AND WAYS TO COMBAT IT

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## Abstract:

The phenomenon of corruption is a widespread global phenomenon with deep roots that take wide dimensions. The phenomenon of corruption does not recognize time limits or spatial boundaries, as its existence is not limited to one country without another, so the phenomenon of financial and administrative corruption is one of the major issues and the most serious problems that the reports of experts and specialists agreed on the need to combat and treat it because of the risks it causes to the stability and security of societies. Financial and administrative corruption has become the biggest enemy to achieve development programs and the spread of poverty, underdevelopment and its serious repercussions on all aspects of the lives of citizens.

**Keywords:** Financial and administrative corruption; anti-corruption; High Authority for Transparency; Prevention and Fight against Corruption

## INTRODUCTION:

Introduction to the topic, the problematic and the method of analysis adopted, the hypotheses adopted, clarify the objectives of the article.

Financial and administrative corruption is a negative phenomenon that affects all developed and underdeveloped societies because of its negative implications for economic, social, and political development. It must therefore be combated and curtailed through the use of specialized mechanisms and the promulgation of laws that contribute to deterring anyone who considers obtaining undue privileges or violating established regulations. Algeria is like other countries that suffer from this visible phenomenon, resulting in the destruction of the national economy, a lack of confidence between the administration and the citizen, and the creation of a volatile investment climate lacking transparency.

Algeria, like other states and governmental and non-governmental organizations, has therefore worked to create mechanisms to combat it by enacting laws and legislation aimed at reducing this phenomenon and ensuring a transparent and credible environment.

## Problem:

**What efforts have been made to combat financial and administrative corruption in Algeria and reduce its spread?**

To answer this problem, we divided our research paper into two basic themes. We will devote the first theme to the concept of financial and administrative corruption, and in the second theme, we will study mechanisms to combat financial and administrative corruption.

## THE FIRST TOPIC: THE CONCEPT OF FINANCIAL AND ADMINISTRATIVE CORRUPTION

Financial and administrative corruption is a persistent phenomenon with illegal practices. It has multiple dimensions and descriptions according to its diversity, manifestations, and tools; the effects of which are reflected in the overall development process and, consequently, on citizens' well-being.

Through this research, we will try to shed light on the concept of financial and administrative corruption by dividing it into two basic requirements. Within the first requirement, we will address the definition of financial and administrative corruption and will examine in the second requirement the causes and types of financial and administrative corruption.

**First requirement: Definition of financial and administrative corruption**

Corruption is a general phenomenon, or perhaps a combination of phenomena associated with each other in different ways, and there is no single analytical definition of it, but multiple definitions.<sup>1</sup> According to the Webster dictionary, there are two definitions of administrative corruption according to the value school, which are: “weakening or corrupting integrity, virtue, or moral principles”, or “inciting wrongful action through bribery or other unlawful means”.<sup>2</sup>

It is also defined as “abuse of government authority to obtain gains or benefits through violating applicable rules, laws, legislation or regulations”.<sup>3</sup>

Furthermore, it is defined as “undesirable change in treatment between the public sector and the private sector, which constitutes a devolution of public trust, or a breach of laws, policies, and procedures that are implemented in the public interest for the purpose of achieving personal benefits at the expense of society, by giving or taking bribes or privileges through abuse of authority and influence in institutions.”<sup>4</sup>

Financial corruption is also defined as “financial deviations and contravention of the provisions and rules currently adopted in the regulations of the State Administration and its institution in violation of financial control and instructions.”<sup>5</sup>

Through previous definitions, corruption in general can be said to be a social behavior evidenced by some indications of an institution’s politically and administratively effective absence, deviation from social values and customs, follow financial ambitions, evasion of due cost, and obtaining unconditional benefits.<sup>6</sup>

The World Bank has developed several definitions of corruption, most recently: “Corruption is the abuse of public office for private gain. Corruption usually occurs when an employee accepts, requests, or extorts a bribe to facilitate the holding of a public tender procedure. It is also done when agents or intermediaries offer companies a bribe to take advantage of public policies or procedures to overcome competitors and make profits outside the framework of soft laws. Corruption can also occur through the exploitation of public office without resorting to bribery by hiring relatives or directly stealing the funds of the state.”<sup>7</sup>

It is noted from this definition that it focuses on the cause of corruption and abuse of public authorities, and it links corruption to the country’s activities and market interference with the presence of the public sector, i.e. this definition excludes the possibility of corruption in the private sector and focuses exclusively on corruption in the public sector.

### **Second requirement: Causes and types of financial and administrative corruption**

Corruption includes many meanings within it, and it exists in all government and private sectors. It exists in any organization in which a person has a controlling power or monopoly power over a good or service or a decision-maker, and there is freedom to determine the individuals who will receive the service or commodity or pass the decision to one category without another. As financial and

<sup>1</sup> Muammar Boutaleb, Saib Zitouni, Electronic Administrative Reform as a Way to Combat Administrative and Financial Corruption in Public Administration, *Journal of Economic Notebooks*, Volume 03, Issue 01, p. 138.

<sup>2</sup> Abdel Karim Taleb, Mansouri Haj Moussa, Combating Administrative and Financial Corruption in Algeria under the High Authority for Transparency, Prevention and Combating Corruption, *Journal of Economic Analysis and Foresight*, Volume 03, Issue 2, 2022, p. 13

<sup>3</sup> Sakak Mourad, Financial and Administrative Corruption and Mechanisms to Combat it with Reference to the Case of Algeria, *Journal of Finance, Investment and Sustainable Development*, Volume 04, Issue 02, December 2019, p. 44.

<sup>4</sup> Abdel Karim Talib, Mansouri Haj Moussa, op, cit, pp. 14, 13

<sup>5</sup> Lamamra Yasmina, Rabab Zaree, Kachroud Iman, Evaluation of Financial and Administrative Corruption and Mechanisms to Combat it in Algeria during 2012-2018, *Journal of Economic Development*, Volume 06, Issue 01, 2021, p. 144.

<sup>6</sup> Ibid., p. 144.

<sup>7</sup> Sherihan Mamdouh Hassan Ahmed, Efforts to Combat Administrative and Financial Corruption in the Kingdom of Saudi Arabia, “A Comparative Study”, *Law Journal A Journal Specialized in Legal Studies and Research*, Volume 04, Issue 04, p. 06.

administrative corruption is one of the forms of corruption, the latter does not come without motives that lead to its emergence and spread. It is divided into several categories, so we will try through this requirement to address the causes of financial and administrative corruption within the first branch, and to the types of financial and administrative corruption within the second branch.

#### **First section: Causes of financial and administrative corruption**

Financial and administrative corruption is an unacceptable economic, political, and social phenomenon that must be addressed and disposed of and society must be protected from its negative effects and conditions. The latter may therefore give rise to a number of economic, social, and political reasons, which we will explain in this section.

##### **First: Economic and social impulses and causes of financial and administrative corruption**

The phenomenon of corruption is governed by interrelated and interactive causes, which are, in their direct or indirect nature, the root causes of the prevalence of administrative and financial corruption. Economic and social conditions play an important role as one of the motives that lead to the emergence of financial and administrative corruption<sup>1</sup>, which can be placed within the following points:

1. The ineffectiveness of economic and financial control systems in institutions and therefore may be a cause of administrative corruption, and the continuous coverage of the corrupt and providing them with protection.
2. State control of the economy or the monopoly of most of the economic sector by a limited number of enterprises. The protection of these enterprises from competition will encourage these institutions to practice corruption.<sup>2</sup>
3. Lack of transparency and weak performance and effectiveness of internal control bodies in the institutions of the administrative apparatus of the state.
4. Behavioral and value deviation, especially among those in senior positions.
5. Failure to adopt objective criteria based on competence and responsibility when appointing responsible staff to posts.
6. Failure of laws and regulations in deterrence and treatment.<sup>3</sup>
7. Low wage levels in the government sector, leading employees to accept bribes to balance private consumer spending.
8. The absence of a real comprehensive anti-corruption program adopted by the state and civil society institutions.
9. Absence of religious morals.
10. The weakness of civil society institutions and the marginalization of their role.

##### **Second: Political motives and reasons for financial and administrative corruption**

Financial and administrative corruption is caused by the political climate and the adoption of different contemporary ideologies by some countries, which are in one way or another inconsistent with religious teachings. This has been reflected in the political stability of most countries in general and in developing countries in particular. Among the political reasons that have helped in the spread and emergence of financial and administrative corruption are the following:

1. The absence of democracy and consultation has prevented many citizens from participating in opinions and contributing to public policy-making.

<sup>1</sup> Sherihan Mamdouh Hassan Ahmed, *op. cit.*, p. 10.

<sup>2</sup> Bouti Amir, *The problem of the relationship between administrative and financial corruption and the increase in public expenditures in Algeria - an analytical and econometric study for the period 1996-2018 AD -*, a memoir that falls within the requirements for obtaining a master's degree in academic specialization in quantitative economics, Faculty of Economics, Management Sciences and Commercial Sciences, Larbi Ben M'hidi, Oum El Bouaghi University, 2019-2020, p. 05.

<sup>3</sup> Abd al-Karim Talib, Mansouri Haj Moussa, *op. cit.*, p. 15.

2. The inability of the executive organs in the state to exercise their functions, the inability of the government to improve the conditions of state workers, and the domination of some state officials and the exploitation of their influence to achieve private interests.<sup>1</sup>

3. Adopting political loyalty as a criterion in appointing administrative leaders in important positions.

4. Political instability and the consequent dictatorship and monopolization of power.<sup>2</sup>

5. The absence of media freedom and the lack of allowing journalists and citizens to access information and records that clarify the nature of work and the abuses that occur in it.

6. Weak will and sincere intention to combat corruption, and failure to take strict, preventive and punitive measures against elements of corruption because of their involvement or the participation of some of their parties in corruption.

7. Failure to adhere to the principle of balanced separation between the three executive, legislative, and judicial powers in the political system and the tyranny of the executive authority over the legislative and judicial authorities, which leads to a violation of the principle of mutual control between these authorities.<sup>3</sup>

### **Second section: Types of financial and administrative corruption**

A range of types of financial and administrative corruption can be distinguished from the criteria adopted in identifying these types. In this context, the types of financial and administrative corruption can be distinguished in terms of:<sup>4</sup>

#### **First: In terms of size**

It is divided into two types:

➤ **Petty corruption** (i.e., corruption of lower functional grades): corruption from one individual without coordination with others, so we see it spreading among young employees by taking bribes from others.

➤ **Great corruption** (corruption of employees' higher grades) carried out by senior officials employed for material or social interests, which is more important and dangerous for being charged with large sums of money.

#### **Second: Types of corruption in terms of prevalence**

In turn, it is divided into two types:

1- **Domestic corruption:** refers to manifestations of corruption within a country and is not excluded from corruption by small employees and individuals in small positions in society who are not associated with foreign companies of other states. Although corruption is a widespread global phenomenon, it does not mitigate the severity of its specificity and intensity in certain countries, including Iraq, Guinea, Myanmar, and Haiti, which, according to a survey conducted by Transparency International, is currently one of the world's most corrupt countries.

2- **International corruption:** Corruption, which takes on large dimensions, reaches a global scale within a system known as a free economy. Local and international companies and political leadership may be interdependent, taking on all mutual self-benefits that are difficult to differentiate in this type and the greatest risk lies in the wider term.

It may take different forms, possibly in the form of bribes, illicit payments under trade, foreign assistance and inter-currency investment flows, or in the form of preferential advantages in imposing trade or bias in favor of certain investment proposals or excluding certain currencies from the scope

<sup>1</sup> Sherihan Mamdouh Hassan Ahmed, *op. cit.*, p. 11.

<sup>2</sup> Bouti Amir, *op. cit.*, p. 05.

<sup>3</sup> Abdul Salam Yassin Al-Majidi, *Types of Administrative and Financial Corruption and New Forms of Corruption*, Journal of Al-Isra College, University for Social Sciences and Humanities, Volume 02, Issue 02, 2020 AD, p. 160.

<sup>4</sup> Hadji Al-Alja, *Financial and Administrative Corruption - Its Causes and Effects with Reference to the Algerian Reality*, Journal of Economics and Applied Statistics, Volume 10, Issue 01, 2013, p. 105.

of international transactions by deception. It may appear to be more dangerous for societies, such as drug and human trafficking, weapons, money-laundering... etc.<sup>1</sup>

**Third: types of corruption in terms of the sector:**

1- **Corruption in the public sector:** corruption prevalent in government administration and all its public bodies, one of the greatest obstacles to development, where public office is exploited for personal purposes and interests.<sup>2</sup> The public sector is a fertile breeding ground for administrative deviations and global thefts because the individual incentive is absent and the personal interest of those in charge of economic activity is not available. Hence, compensation is always that pattern of employing the public in favor of the private and turning sites into (shops) whose owners bring benefits and exploit sites for goals that have nothing to do with public enterprises and companies winning or losing as long as the state is the only owner capable of compensating losses and covering thefts, and perhaps even covering up seniors' corruption sometimes.<sup>3</sup>

2- **Corruption in the private sector:** The Transparency International report indicated that US companies are the most illegal companies, followed by French, Chinese, and German companies. The report also notes that many senior officials in more than 136 countries are paid regularly for providing services to these companies, and these countries are growing in East Asia and Latin America. Senior military and police officers and senior political officials may be at the forefront of this huge crowd. Approximately US \$30 billion provided by US companies has been discovered to facilitate the conclusion of more than 60 contracts for US companies abroad.

At the same time, a special report by the International Monetary Fund indicates that a large proportion of the money borrowed by American banks to developing countries returns to the United States of America and Switzerland and is deposited in their banks in the personal accounts of officials in those countries, as well as manifestations of considerable excess in the use and exploitation of these funds.<sup>4</sup>

A report published in American newspapers also indicates that the United Nations annually wastes \$400 million between corruption, waste, and mismanagement.

**THE SECOND TOPIC :MECHANISMS TO COMBAT FINANCIAL AND ADMINISTRATIVE CORRUPTION IN ALGERIA**

Corruption is a phenomenon that affects Algeria like the rest of the countries. However, we notice in recent years that Algeria has seen a qualitative leap in corruption in various sectors of Algeria, which has caused it to suffer significant financial losses in the economic sphere, not to mention the decline in its status regionally and internationally. This is confirmed by reports and studies conducted by some international organizations, such as the International Bank, which detailed a study on the investment climate in Algeria, which involved 562 private national and foreign institutions in 2000. The report stated that corruption was the first obstacle to investment in Algeria, in addition to financial constraints, especially with regard to loans and the difficulty of obtaining industrial real estate.<sup>5</sup>

The Algerian authorities have tried to combat this phenomenon by cooperating with the international community on the one hand, and by undertaking fundamental reforms of laws on the

<sup>1</sup> Ethar Abboud Kazem Al-Fatli, Administrative and Financial Corruption and its Economic and Social Effects in Selected Countries, Thesis for the requirements of obtaining a master's degree in economic sciences, College of Administration and Economics, Department of Economics, University of Karbala, Iraq, 2009, pp. 26, 25.

<sup>2</sup> Saliha Boujadi, Mechanisms to combat financial and administrative corruption between Islamic jurisprudence and Algerian law, PhD thesis, specializing in Sharia and Law, Faculty of Islamic Sciences, University of Hajj Lakhdar, Batna 1, 2017-2018, p. 132.

<sup>3</sup> Lectures published on the website: elearning-facsceg.unia-annaba.dz, accessed February 14, 2023.

<sup>4</sup> Ethar Abboud Kazem Al-Fatli, previous reference, p. 26.

<sup>5</sup> Amal Ben Sweileh, Mechanisms to combat administrative and financial corruption in Algeria in light of the new reforms, Journal of Human Sciences, Volume 02, Issue 01, June 2021, p. 261.



other.<sup>1</sup> This is what we will try to clarify within this section, which we will divide into two requirements, as we will allocate the first requirement for the legal framework of the Supreme Authority for Transparency, Prevention, and Fight against Corruption, and we will study within the second requirement: the organization of the Supreme Authority for Transparency, Prevention, and Fight against Corruption.

### **First requirement: The Supreme Authority's legal system of transparency, prevention, and fight against corruption**

Undoubtedly, the fight against corruption is not confined to the national and internal level but must be strengthened by States' support and vice versa. Protecting state institutions from this dangerous phenomenon is the main goal, whether by issuing laws criminalizing these acts or by creating psychological mechanisms and national bodies that work on the tracking of this type of crime, such as what was created in Algeria for the High Authority of transparency, prevention, and combating corruption under the Constitutional Amendment of 2020, and the provisions of this body through Law No. 22-08 of May 25, 2022, which defines the organization, composition, and powers of the Supreme Authority for Transparency, Prevention, and Fight against Corruption.<sup>2</sup>

In the framework of the institutional reform adopted by the constitutional amendment of 2020<sup>3</sup>, article 04 of the Constitution provides for the establishment of a new supervisory institution, the Supreme Authority for Transparency, Prevention, and Fight against Corruption. Below, we will try to shed light by defining it and describing its most important characteristics within two branches.

### **First section: Definition of The Supreme Authority for Transparency, Prevention and Fight against Corruption**

The Algerian legislator defined the Supreme Authority for Transparency, Prevention and Fight against Corruption in article 2 of the aforementioned Law No. 22/08 as "the High Authority is an independent institution with legal personality and financial and administrative independence". Article 204 of the 2020 constitutional amendment defines it as an independent institution.

Article 18 of Law No. 06/01 defines it as "an independent administrative authority with legal personality and financial independence, placed with the President of the Republic.

Accordingly, the High Authority for Transparency, Prevention and Fight against Corruption is among the independent administrative authorities, and it is an independent constitutional oversight institution charged with preventing and combating corruption, and works to consolidate the values of citizenship, spread a culture of integrity in society and uphold the principles of transparency and good governance.<sup>4</sup>

### **Second section: Characteristics of The Supreme Authority for Transparency, Prevention and Fight against Corruption**

The Supreme Authority for Transparency, Prevention and Fight against Corruption is characterized by a number of characteristics, including:

First: The Supreme Authority for Transparency, Prevention and Fight against Corruption is a constitutional institution stipulated by the constitutional founder within Chapter IV entitled "Oversight Institutions" and devoted an entire chapter to it, which is Chapter IV entitled "The Supreme Authority for Transparency, Prevention and Fight against Corruption". Thus, the constitutional founder has included it within the correct framework for it, which is oversight, contrary to what was included in the constitutional amendment of 2016.

<sup>1</sup> Mahdaoui Saad Saleh, Combating Administrative and Financial Corruption - Obstacles and Prospects, Journal of Algerian Public Law and Real Estate, Volume 08, Issue 01, May 2022, p. 218.

<sup>2</sup> Law No. 22-08 of May 2022 establishes the organization of the Supreme Authority for Transparency, Prevention and Control of Corruption and its Composition and Validity. Fourth Gazette No. 32, dated May 14, 2022.

<sup>3</sup> Constitution of the Republic of Algeria of 2020, Al-Rabi 'a Newspaper No. 82, issued on 30 December 2020.

<sup>4</sup> Malaikia Assia, The High Authority for Transparency, Prevention and Fight against Corruption under Law 22/08, Journal of Legal and Political Thought, Volume 06, Issue 2, 2022, p. 692.

The constitutional founder included it among the advisory institutions and then contradicted himself and considered it an independent administrative authority, as he considered it an authority and not an institution, contrary to what was included in the title of Chapter III.<sup>1</sup>

Second: The Supreme Authority for Transparency, Prevention, and Fight against Corruption is an independent administrative authority. The Algerian legislator has affirmed that this authority is an independent authority, and this is a new type of method of fighting the public authority because it enjoys independence in decision-making and combines the functions of management and control.

The authority's independence means that it is an administrative authority independent of the executive branch and is never controlled although it enjoys the prerogatives of the public authority so that it can achieve its objectives of preventing corruption.<sup>2</sup>

Despite the independence referred to by the constitutional founder or the aforementioned Law No. 22-08, what is noticeable from the provisions of articles 36 and 38 of the aforementioned Law 22-08 is that the legislator has recognized that the Authority shall be provided with a special budget to be recorded in the general budget of the State, and shall maintain the accountability of the Supreme Authority in accordance with the rules of public prevention in accordance with the legislation and regulation in force. Hence, the financing of the authority by the state through the subsidies provided to it inevitably leads to its subjection to financial control exercised by a financial controller appointed by the minister in charge of finance. From here, it is clear that the authority is financially subordinate to the executive authority, which means independence remains incomplete.<sup>3</sup>

Third: The Supreme Authority for Transparency, Prevention, and Fight against Corruption is a supervisory authority, unlike the National Authority for the Prevention and Combating of Corruption, which was an advisory body under the 2016 constitutional amendment, exercising its advisory functions in the form of recommendations, opinions, or reports issued following its internal regulations. The Supreme Authority for Transparency, Prevention, and Fight against Corruption is a supervisory authority included in the monitoring institutions entrusted with investigating the modalities of using ordinary means and public conditions and their impact.<sup>4</sup>

Fourth: Assigning the authority to issue the legal framework regulating the High Authority for Transparency, Prevention, and Fight against Corruption to the legislator through a law specifying its organization and formation, as well as its other powers as stipulated in the second paragraph of Article 205 of the 2020 constitutional amendment.

Contrary to the organization of the National Authority for the Prevention and Combating of Corruption through a presidential decree, even under the explicit directive of the same 06-01 law, as manifestly reflected in article 18, paragraph 2, of the latter, it is the executive power represented in the President of the Republic that has taken care to regulate all aspects of the organization of the Authority. Law 06-01 and Decree 06-413 have both described the Authority as an independent administrative authority. Therefore, can this not be considered as an implicit waiver by the legislator of the executive branch by regulating a matter of interference primarily in the field of legislation, given the gravity of the area associated with it, and ensuring the latter's independence, which has significantly affected its independence.<sup>5</sup>

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<sup>1</sup> Ahsan Gharbi, *The Supreme Authority for Transparency, Prevention and Fight against Corruption in Light of the Constitutional Amendment of 2020*, Research Journal, Volume 6, Issue 1, 2021, p. 692.

<sup>2</sup> Othman Huwaitheq, Mohamed Lamin Salkh, *The Legal System of the Supreme Authority for Transparency, Prevention and Fight against Corruption*, Journal of Political Legal Sciences, Volume 13, Issue 01, 2021, p. 475.

<sup>3</sup> Jamal Qarnash, *the Supreme Authority for Transparency, Prevention and Fight against Corruption from the Perspective of Law 22-08*, Journal of Legal and Economic Studies, Volume 05, Issue 2, 2022, p. 907.

<sup>4</sup> Malaikia Assia, *op. cit.*, p. 860.

<sup>5</sup> Kamal Mustafawi, Ali Mazouz, *The Role of the Supreme Authority for Transparency, Prevention and Fight against Corruption in the 2020 Constitutional Amendment: A New Approach or an Extension of the Previous Approach to Prevention and Control*, Legal Analyst, Volume 3, Issue 2, 2021, p. 102.

Fifth: Subordination to the President of the Republic. The creation of The Supreme Authority for Transparency, Prevention, and Fight against Corruption was not the result of ratification by the executive authority, but rather the result of Algeria's ratification of conventions that oblige the countries that ratified them to establish an independent body concerned with combating corruption, and therefore there is no real intention to combat corruption effectively. There are those who believe the opposite, justifying its subordination to the President of the Republic in order to carry out its work with full force and rigor and be free from all external interference, pressure, and political blocs.<sup>1</sup> We also note that the recent constitutional amendment of 2020 dropped the clause of subordination to the ranks of the republic, and perhaps this is an indication that this point is confronted by the constitution due to the criticisms directed at it based on what it adopted in the constitutional amendment of 2016.

### **Second requirement: System of the Supreme Authority for Transparency, Prevention, and Fight against Corruption**

The aim of establishing the Supreme Authority is to work to prevent and combat corruption, and to achieve this, it requires the availability of the greatest guarantees that free the authority and provide it with the necessary independence in terms of membership.

Accordingly, through this requirement, we will address the formation of the Supreme Authority for Transparency, Prevention, and Fight against Corruption as the first branch, and we will study the powers of the Supreme Authority for Transparency, Prevention, and Fight against Corruption within the second branch.

### **First section: The formation of the Supreme Authority for Transparency, Prevention, and Fight against Corruption**

The Algerian legislator has corrected by the aforementioned Law No. 22/08 all the shortcomings that marred the method of appointing the members of the Commission in Decree 06/413, amended and supplemented, so that the legislator adopts the method of participation in the examination of members of the Supreme Authority for Transparency, Prevention, and Fight against Corruption with the various authorities in the State. This would grant the independence of the most members, as evidenced by the composition of the supreme authority, as the authority council includes 12 main members appointed as follows:

- Three members selected by the President of the Republic from among independent national figures.
- Three judges are selected by the Supreme Judicial Council, the Council of Judges, the Accounting Council, where one judge is selected from the Supreme Court, one judge from the Council of State, and another from the Accounting Council.
- Three independent figures are selected respectively by: President of the National People's assembly, president of the National Assembly, and the First Minister or Head of Government as the case may be.
- Three civil society figures, selected by the President of the National Observatory of Civil Society from among those known for their interest in issues related to the prevention and fight against corruption.

Accordingly, the President of the Republic, in accordance with the aforementioned Act No. 22-08, no longer has a monopoly on the power to choose members of the Supreme Authority for Transparency, Prevention, and Fight against Corruption. He is entitled to select only three members. The legislator does not limit him to any criteria or qualifications that must be met only being an independent national figure.

The term of membership in the Supreme Authority is limited to five years, which is not renewable for members of the Supreme Authority's Council. Its President is also appointed for a five-year term but can be renewed once.<sup>2</sup>

Thus, it is clear from the above-mentioned Act No. 22-08 that the Supreme Authority for Transparency and the Prevention and Fight against Corruption is constituted in two basic organs:

<sup>1</sup> Othman Huwaitheq, Mohamed Lamin Salkh, op. cit., 475

<sup>2</sup> Malaikia Assia, op. cit., p. 861.



### 1- Head of Supreme Authority:

The Head of the Supreme Authority is its legal representative. Therefore, Act No. 22-08 confers upon him a number of powers appropriate to his status. He is responsible for preparing the National Strategy for Transparency, Prevention and Control of Corruption and for ensuring its implementation and follow-up. He also seeks to develop cooperation with and exchange information with corruption prevention and combating bodies at the international level.

The Head also prepares the draft blueprint for the supreme authority as well as the draft rules of procedure. He may also prepare the draft annual budget, together with the draft annual report of the supreme authority and submit it to the President of the Republic after its approval by the Council.

He is also empowered to transmit files containing facts of a criminal nature to the competent regional prosecutor rather than to transmit them to the Minister of Justice, as was the case in Decree No. 06-413.

### 2- Office of Supreme Authority:

The Supreme Authority Council is a body presided over by the President of the Supreme Authority, whose secretariat is the Secretary-General of the Supreme Authority, composed of several members. On the other hand, it has been given certain powers within the framework of its legal meetings that are commensurate with its human composition. The Council also meets in regular session upon recall of its President at least once every three months and can meet in extraordinary sessions at the President's summons automatically, or at the request of at least half of its members. The deliberations of the Council are not valid except in the presence of at least half of its members, and the decisions of the Council are taken by the majority, and in the event of an equality of votes, the vote of the President will prevail.

During the meeting of the Board, the latter undertakes the following:

- Study and approve the draft plan of action of the Supreme Authority submitted to it by the President of the Supreme Authority, as well as approve the draft budget of the Authority and its rules of procedure.
- Issuing orders to the concerned institutions and agencies in case of breach of integrity.
- Studying the files that may include acts of corruption and which are presented to it by the head of the supreme authority.
- Express an opinion on the means put forward by the Government, Parliament or any other body or institution, to the supreme authority relevant to its competence.
- Express views on cooperation projects in preventing and combating corruption with international bodies and organizations.
- Approval of the annual report of the activities of the Supreme Authority.<sup>1</sup>

### Second section: Powers of the Supreme Authority for Transparency, Prevention, and Fight against Corruption

Law No. 08-22 defines the powers of the Supreme Authority for Transparency, Prevention, and Fight against Corruption. Its powers and functions are as follows:

- The Authority aims to achieve the highest indicators of integrity and transparency in facilitating public affairs, in addition to the powers stipulated in Article 205 of the Constitution.<sup>2</sup>
- The higher authority undertakes administrative and financial investigations into the manifestations of illicit enrichment of a public official who cannot justify the significant increase in his financial liability.
- The Supreme Authority monitors the compliance of public administrations, local communities, public and economic institutions, associations and other institutions with the obligation to comply with transparency regulations and prevent and combat corruption.

<sup>1</sup> Jamal Qarnash, *op. cit.*, p. 912.

<sup>2</sup> See Article 205 of the 2020 Constitution, *ibid.*

– When the higher authority examines, either on its initiative or after being notified, that there has been a violation of the quality and effectiveness of procedures applied within public bodies and administrations, associations, and institutions related to the prevention and detection of acts of corruption, it shall make recommendations to take measures to put an end to these violations within the time limit it specifies.

– In the event of serious elements confirming the existence of unjustified territory of the public official, the higher authority may submit to the Public Prosecutor at the Sidi M’hamed Court a report to obtain precautionary measures to freeze banking operations or seize property for 3 months through a judicial order issued by the President of the same Court.<sup>1</sup>

#### **Conclusion:**

Financial and administrative corruption have deep and diverse historical roots. Today, the domestic sphere has risen to the global level and has been associated with international developments that have served as a catalyst for its global spread. Corruption has become increasingly intertwined and deeply influenced, and the different mechanisms of corruption have become the language and the way of understanding of this era. Through our study of the reality of financial and administrative corruption in Algeria and our counter-terrorism mechanism, we have reached a number of conclusions, including:

- Financial and administrative corruption appears in the public and private sectors but in varying proportions. It is more prevalent in the first sector than the second, especially in developing countries with natural wealth, for internal and external reasons.
- The effects of financial and administrative corruption are very high on the State’s treasury.
- Despite the existence of bodies and laws in Algeria, this has not prevented billions from being wasted as a result of multiple forms of financial and administrative corruption, nor has it diminished the scale of this disease, which harms our economy and contributes to investors’ flight.
- The powers of the Supreme Authority are transformed from those of the Advisory Body to oversight powers in order to make the Authority more effective in combating corruption. If it is unable to achieve this through one of its powers, it moves to use another more efficient role and authority, all in order to fight corruption and achieve greater transparency.
- The Supreme Authority for Transparency, Prevention, and Fight against Corruption’s decisive contribution in corruption, where it has not played a prominent role in the field to date due to legislative inadequacy.

Through the above findings, we propose the following recommendations:

- The need to raise awareness of the dangers of corruption and its various types and manifestations through holding awareness meetings, seminars, and forums.
- Enhancing transparency and accountability and creating more effective mechanisms for internal control and accountability through control units in each institution.
- Establish disciplinary procedures for corruption violations and penalties.
- The need to oblige the corrupt to return the money they seized by confiscating their money and property.
- The need for transparency in administrative work, simplification, and acceleration of administrative procedures for administrative transactions.
- Work to ensure the real independence of the High Authority for Transparency, Prevention, and Fight against Corruption and support it with actual powers and means to deter corrupt people and bring them to justice.
- Inclusion of exceptional powers in the field of investigating corruption crimes to the High Authority for Transparency, Prevention, and Fight against Corruption as a preventive measure against corruption crimes.
- Strengthening the cooperation of the High Authority for Transparency, Prevention, and Fight against Corruption with the various administrative and judicial bodies related to combating corruption.

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<sup>1</sup> Abd al-Karim Talib, Mansouri Haj Moussa, op. cit., pp. 26-27.

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