

EFFECTIVENESS OF THE ROLE OF HIGHER AUTHORITY FOR TRANSPARENCY, PREVENTION AND COMBATING CORRUPTION IN ACHIEVING THE PREVENTION OF CORRUPTION FROM THE PERSPECTIVE OF ALGERIAN LAW NO. 22-08

ELFAHLA MADIHA¹

Faculty of Law and Political Sciences,
Amar Telidji University, Laghouat, (Algeria)¹

m.elfahla@lagh-univ.dz¹

Abstract - Algerian legislator has adopted a strategy that blends deterrence and prevention to confront and combat corruption. Preventive mechanisms are in place in advance to reduce the incidence of corruption, and prevention policy relies mainly on bodies, the most important of which is the Higher Authority for Transparency and Prevention of Corruption, an independent constitutional institution. It was created by the Constitutional Amendment of 2020, followed by the promulgation of its Organic Law No. 22-08, which expanded its powers in the preventive field, such as its competence to receive property declarations and ensure their processing and control. It was entrusted with oversight functions to notify the competent judicial authorities of corruption offenses. Also, it was given the authority to carry out administrative and financial investigations into manifestations of illicit enrichment of the employee, as well as other powers aimed at achieving the highest indicators of integrity and transparency in the conduct of public affairs, career ethics, the promotion of good governance, prevention and the fight against corruption.

Keywords: Higher authority; Preventive mechanisms; Transparency; Anti-corruption; Regulatory measures.

INTRODUCTION

The challenges posed by the spread of corruption in all countries of the world necessitated the concerted efforts of all nations to develop mechanisms to support limiting the spread of corruption and confronting it. Therefore, the countries adopted the United Nations Convention against Corruption in 2003, which Algeria ratified by Presidential Decree No. 04-182 of April 19, 2004¹, and in line with this agreement, the Algerian legislature enacted the Anti-Corruption Prevention and Control Law No. 06/01 of 20 February 2006².

Corruption is “acts which a person or a group of persons unduly exercises to obtain benefits and advantages in ways and means contrary to the provisions of national laws and legislation”, and Wilburn defined it as “the misuse of a position of power to obtain personal benefits or to achieve direct benefits for others”³. The corruption⁴ is the intentional noncompliance with arm’s length relationship aimed at deriving some advantage from this behavior for oneself or related individuals⁵. But the most popular definition of corruption is the abuse of public power for private benefit.⁶

¹ Decree No. 04-128 of 19 April 2004 ratifying with reservation the Convention against Corruption adopted by the United Nations General Assembly in New York on 31 October 2003. See Official Gazette No. 26, issued on 25 April 2004.

² Law No. 06-01 on the prevention and control of corruption of 20 February 2006. Official Gazette 14, 08 March 2006.

³ Mohammed Bin Ahmed Bin Ali al-Kathiri, Mechanisms for Combating Financial Corruption in International Charters and the Saudi Regime, Magister's Thesis, 2018, Al-Sharq Al-Arabi Graduate School, Saudi Arabia, pp. 20-22.

⁴ This Phenomenon takes many forms, bribery of public officials, kickback (bribery on public transaction), illicit enrichment, receiving gifts, embezzlement, and money Laundering. See Belatel Ayache, An Economic reading of legal and constitutional mechanisms to curb the phenomenon of corruption in Algeria, El Bahith Review, 21(2021), page 60.

⁵ Vito Tanzy, Corruption around the word: causes, consequences, scope, and curses, IMF Working Paper, International Monetary Fund, May 1998, page 8.

⁶ Dinsha Mistree, Arjuna Dibley, Corruption and the paradox of transparency, working papers series, Stanford Law School, March 2018, Page 15.

Corruption is considered one of the most serious crimes that undermine the national economy, hinder development, undermine citizens' confidence in public administration, and paralyze the work of public utilities, where the only concern of the public official is to achieve profit and personal wealth at the expense of the public service and public finance.

In order to protect public funds from waste and the indifference of a public official's hands from being trafficked, and to achieve transparency and integrity in the conduct of public affairs, the Algerian legislature has adopted a national strategy that prioritizes prevention before deterrence and control.

The deterrent criminal policy focuses on criminalizing all forms of corruption and establishing criminal penalties for corruption, which was included in the provisions of the Algerian Penal Code from Articles 119 to 134 before the issuance of the Anti-Corruption Prevention and Control Law and the abolition of the general provisions of the Penal Code. However, preventive policy works to create a working life and prevent corruption crimes. Perhaps the most important mechanism developed by Algerian legislator to prevent corruption is the Higher Authority for Transparency, Prevention and Combating Corruption.

The Higher Authority for Transparency, Prevention and Combating of Corruption is an independent constitutional institution created by Article 204 of the Algerian Constitution of 2020, which stipulates: "The Higher Authority for Transparency, Prevention and Combating of Corruption is an independent institution"⁷. The Law No. 22-08⁸ on the Organization of the Higher Authority for Transparency, Prevention and Combating Corruption was promulgated to strengthen institutional mechanisms for preventing and combating corruption and achieving transparency and integrity in working life.

The importance of this study lies in knowing the effectiveness of the preventive strategy followed by the Algerian legislator, which is focused on creating the Higher Authority for Transparency and the Prevention of Corruption, and whether this authority has achieved what the National Authority for the Prevention and Combating of Corruption has failed to achieve.

Therefore, we will ask the following question: **How effective are the powers given to the National Authority for Transparency, Prevention and Combating Corruption in order to reinforce the role of prevention and combating corruption?**

To answer this problem, the study will be divided into two parts:

The first part deals with the organizational framework of the Higher Authority for Transparency and Prevention of Corruption.

The second part is about the competencies of the Higher Authority for Transparency and Prevention of Corruption.

1. Part 1: The organizational framework of the Higher Authority for Transparency and Prevention of Corruption

Through this research, we will address the organizational framework of the Higher Authority for Transparency, Prevention and Combating Corruption, as the first request will include the legal authority of the Higher Authority for Transparency, Prevention and Combating Corruption, and the second request, in which we will shed light on its characteristics and composition.

1.1. First requirement: The legal authority of the Higher Authority for Transparency and Prevention of Corruption

The Higher Authority for Transparency, Prevention and Combating of Corruption was created by the 2020 Constitutional Amendment⁹. It is an independent constitutional institution granted moral personality and financial and administrative independence by the Algerian legislator, as stipulated in Article 2 of Law

⁷ Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

⁸ Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

⁹ Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

No. 22-08 on the Organization of Authority, which considers the Higher Authority to be an independent institution with moral personality and financial independence.¹⁰

Since the United Nations Convention against Corruption is a reference point for all national legislation of countries that have ratified it, including Algeria, article 6 of the Convention stipulates that each country shall ensure the existence of an organ responsible for the prevention of corruption¹¹. Similarly, the African Union Convention on Preventing and Combating Corruption, ratified through presidential decree 06-137¹², and the Arab Convention for Combating Corruption ratified through presidential decree 14-249¹³; both stress the promotion of integrity and transparency, accountability and the rule of law.

Algeria has therefore done what is stated in the United Nations Convention against Corruption by establishing the National Authority for the Prevention and Combating of Corruption under Law No. 16-01 on the prevention and control of corruption by Article 17 thereof. It has established the National Authority for the Prevention and Control of Corruption and has been considered an independent administrative authority with moral personality and financial independence, to be placed with the President of the Republic, in accordance with Article 18 of Law No. 16-01.¹⁴

However, with the constitutional amendment of 2020, the National Authority for the Prevention and Combating of Corruption was replaced by the Higher Authority for Transparency, Prevention and Combating of Corruption, to achieve the highest indicators of integrity and transparency in the conduct of public affairs, as stipulated in article 4 of Law No. 22-08¹⁵. In addition, technical mechanisms will be supported and strengthened in the face of corruption crimes at various political, economic and administrative levels¹⁶. The Higher Authority for Transparency, Prevention and Combating Corruption is an independent constitutional and regulatory institution tasked with promoting transparency in public life and preventing and combating corruption.¹⁷

1.2. Second requirement: Characteristics and composition of the Higher Authority for Transparency, Prevention and Control of Corruption

We will devote this requirement to studying the most important characteristics of the Higher authority for transparency, prevention and combating corruption through the first branch, while the second branch will focus on the composition of the Higher authority for the prevention and combating of corruption.

1.2.1. First section: Characteristics of the Higher Authority for Transparency and the Prevention and Control of Corruption

The Higher Authority for Transparency and Prevention of Corruption is distinguished by several characteristics, which we mention as follows:

a. The Higher Authority is a constitutional supervision institution:

¹⁰ Article 2 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

¹¹ Decree No. 04-128 of 19 April 2004 ratifying with reservation the Convention against Corruption adopted by the United Nations General Assembly in New York on 31 October 2003. Official Gazette 26, 25 April 2004.

¹² African Union Convention on Preventing and Combating Corruption adopted in Maputo on July 11, 2003, ratified by presidential decree N°06-13, Official Gazette N° 24, 16 April 2006.

¹³ Arab Convention against corruption adopted in Cairo on December 21, 2010, ratified by presidential decree N°14-249. Official Gazette N°54, 21 September 2014.

¹⁴ Articles 17 and 18 of Law No. 06-01 on the prevention and control of corruption of 20 February 2006. Official Gazette 14, 08 March 2006.

¹⁵ Article 4 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

¹⁶ Gomiri Hamidiya, Effectiveness of the Anti-Corruption Mechanism in Algeria, "National Authority for Combating Corruption, Central Bureau for the Suppression of Corruption", Al-Biban Journal of Legal and Political Studies, Volume 7, 1, June 2022, p. 190.

¹⁷ Gharbi Ahsan, Higher Authority for Transparency, Prevention and Combating of Corruption under the Constitutional Amendment 2020, Research Journal, Volume 6, 1, 2021, p. 692.

In contrast, the National Authority for the Prevention and Combating of Corruption, which was of a consultative nature according to Article 202 of the 2016 Constitution¹⁸, which was made by the Constitutional Institution among the institutions of a consultative nature, the 2020 constitutional amendment was amended when the Higher Authority for Transparency, Prevention and Combating of Corruption was granted a supervisory rather than an advisory nature, by monitoring the legal tools related to transparency and prevention of corruption, and assessing their effectiveness in proposing appropriate mechanisms to improve them, as can be seen from the text of Article 20 of Law No. 22-08 on the organization of the Higher Authority for Transparency and Prevention of Corruption.¹⁹

b. Independent administrative authority:

Article 20 of Law No. 22-08 regulating the Higher Authority for Transparency, Prevention and Combating Corruption stipulates the independence of this authority in taking decisions that combines the functions of management and control. Independence also means that it is not subject to the executive authority, as it enjoys the privileges of the public authority and can achieve its objectives aimed at combating corruption²⁰.

In contrast to the National Authority for the Prevention and Combating of Corruption, which was affiliated with the President of the Republic, the Constitutional Institution avoided this and dropped the term of its subordination to the President of the Republic in accordance with Article 204 of the constitutional amendment of 2020²¹. It also recognized the independence of the Higher authority and its non-subordination to the President of the Republic and to any subordinate executive authority in order to protect it from various forms of pressure. The legislator clarified that it possesses legal personality, financial independence, and administrative independence. It is provided with a dedicated budget by the state and is equipped with all necessary human, financial, and material.²²

Additionally, The composition and powers of the Higher Authority were determined by Law No. 22-08. Article 205 of the 2020 Constitutional Amendment referred the issue of the organization and composition of the Higher Transparency Authority to the law²³. As for the National Authority for the Prevention and Combating of Corruption, the organization was given the task of determining its composition due to its subordination to the President of the Republic.

c. Moral personality and financial independence:

Article 2 of Law No. 22-08 regulating the Higher Authority for Transparency and Prevention of Corruption stipulates that the authority enjoys financial independence and moral character. However, despite the Algerian legislator's recognition of the authority's moral character and financial independence, its budget is recorded in the state budget, in the sense that it is recorded in the general budget of the country and subject to before-after control, which makes us consider that its independence is relative.²⁴

1.2.2. Second section: Composition of the Higher Authority for Transparency and Prevention of Corruption

Article 16 of Act No. 22.08 on the Organization of the Higher Authority for Transparency and Prevention of Corruption is read as follows:

- The President of the Higher Authority;

¹⁸ Article 202 of Constitutional amendment 2016, issued by Law 01-16, promulgated on 6 March 2016, Official Gazette 14, 7 March 2016.

¹⁹ Article 2 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

²⁰ Othman Huitheg, Mohamed Lamine Sellekh, Legal System of the High Authority for Transparency, Prevention and Combating of Corruption, Journal of Legal and Political Sciences, Volume 13, 1, April 2022, p. 475.

²¹ Article 204 of Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

²² Daim Nawal, Derrar Abdelhadi, The Newly Established Constitutional Mechanism for Prevention and Combating Corruption In Algerian Constitution of 2020 and Legal Texts, Russian Law Journal, Volume XII, Issue 1, 2024, page 1061.

²³ Article 205 of Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

²⁴ Othman Huthaiq, Mohamed Lemine Salkh, Legal System of the High Authority for Transparency, Prevention and Combating of Corruption, Journal of Legal and Political Sciences, Volume 13, 1, April 2022, p. 475.

- The Higher Authority Council.

a. Head of the Higher Authority for Transparency, Prevention and Combating Corruption

The President of the Higher Authority for Transparency and Prevention of Corruption is the legal representative thereof. He is appointed by the President of the Republic for a five-year term, renewable once, according to Article 21 of Law No. 22-08. He shall not practice another profession during his term of office that is incompatible with the functions of the Higher Authority for Transparency, Prevention and Combating Corruption, in order to maintain neutrality and the integrity of his position.

The functions of the President of the Authority are defined in Article 22 of Act No. 22-08 and can be summarized as follows:

- Prepare a draft national strategy for transparency, prevention and combating corruption, and ensure its implementation.
- Preparation of the draft work plan and rules of procedure of the Authority.
- Prepare annual reports on the work of the Authority and submit them to the President of the Republic after approval by the Council.
- Refer the files with the criminal description to the competent regional prosecutor.
- Report periodically to the Council on all notifications received.
- To promote cooperation with corruption prevention bodies at the international level.²⁵

b. Council of the Higher Authority for Transparency, Prevention and Combating Corruption

The composition of the Higher Authority for Transparency, Prevention and Combating Corruption Board is as follows:

- Three members appointed by the President of the Republic from among independent national figures.
- Three judges, one from the Higher Court, one from the State Council and the third from the Accountability Council, selected by the Supreme Judicial Council and the Accountability Council Board of Judges.
- Three independent personalities with expertise in the field of preventing corruption, selected by the President of the Nation Council, the President of the National People's Council, and the Prime Minister.
- Three civil society figures known for their interest in corruption cases were selected by the President of the National Observatory for Civil Society.²⁶

However, their appointment by the President of the Republic for a non-renewable term of five years poses the problem of the lack of independence of the member of the higher authority for transparency, prevention and control of corruption, and his subordination to the executive authority.

Therefore, it is necessary to mention the guarantees of the independence of Higher authority and its members from the executive authority: The utilization of facilities provided to them during their tenure to facilitate their work. The State protection during the performance of their duties and/or on occasion, protects them from defamation, threats, or any form of assault. Entitlement to compensation for the performance of their duties, as specified by regulations, and their independence in carrying out their

²⁵ Article 22 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

²⁶ Article 23 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.



work, free from pressure from other institutions in the state. Another guarantee is the collective decisions made by the Council, which are taken by a majority of the attending members.²⁷

2. Part 2: Competencies of the Higher Authority for Transparency, Prevention and Control of Corruption, and Evaluation of its Effectiveness

In its anti-corruption policy, the Algerian legislator has been keen to promote transparency, accountability and the development of good governance, to establish bodies that work to achieve these goals²⁸, but after the inability of the National Authority for the Prevention and Combating of Corruption to deal with this serious crime, and to point out that this deficit is due to the limited role entrusted to it in the preventive field, considering it an advisory body whose functions are sensitive, and to limit its authority in initiating public actions related to corruption. For all the above-mentioned reasons, the Algerian legislator has reconsidered the preventive mechanisms against corruption and created the Higher Authority for Transparency, Prevention and Combating Corruption, which has expanded its powers and is no longer limited to the preventive aspect only, but also has oversight and even deterrent tasks at times, as will be shown through the following elements:

2.1. First requirement: Competencies of the Higher Authority for Transparency, Prevention and Combating of Corruption

The Higher Authority has a preventive role before the occurrence of corruption crimes. It is responsible for developing a national strategy for transparency and prevention of corruption, contributing to the morality of public life and promoting good governance, and it has a monitoring role, as it monitors the compliance of local administrations and groups with the regulations on transparency and prevention and combating corruption. It also has a deterrent role in notifying the Accountability Council and the competent judicial authority whenever it sees any irregularities, and preparing annual reports on its activities, handing them over to the President of the Republic²⁹. In addition, it expresses its opinion that legal texts relating to the proposals of draft laws relating to transparency and the prevention of corruption must be included.³⁰

2.1.1. First section: Competencies of a preventive nature

- Develop the national strategy for the prevention and control of corruption and ensure its implementation and follow-up.³¹
- Collect, utilize and disseminate information and recommendations that assist public administrations or any natural or moral person in preventing and combating corruption.
- Receive property declarations and ensure their processing and control following the legislation in force.
- To develop an interactive network for the involvement of civil society and for the standardization and promotion of its activities in the field of preventing and combating corruption.

²⁷ Daim Nawal, Derrar Abdelhadi, The Newly Established Constitutional Mechanism for Prevention and Combating Corruption In Algerian Constitution of 2020 and Legal Texts, Russian Law Journal, Volume XII, Issue 1, 2024, page 1062.

²⁸ Mouzaoui Akila, Algerian Constitutional Institutions Active in Governing in Accordance with the 2016 Constitution, Journal of Legal Studies, Volume 4, 1, January 2018, p. 64.

²⁹ Gomiri Hamidiya, Effectiveness of the Anti-Corruption Mechanism in Algeria, "National Authority for Combating Corruption, Central Bureau for the Suppression of Corruption", Al-Biban Journal of Legal and Political Studies, Volume 7, 1, June 2022, p. 193.

³⁰ Linda Baghdadi, Priority of preventive policy over repressive policy in combating money laundering under Law No. 06-01 on preventing and combating corruption, Journal of Legal Analyst, Volume 5, 1, June 2023, p. 140.

³¹ Article 205 of Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.



-Strengthening the rules of transparency and integrity in the organization of charitable, religious, cultural and sporting activities in public and private institutions, through the preparation and establishment of workspace and appropriate regulations for the prevention and combating of corruption.

-To establish a systematic and structured method for the exchange of information with its counterparts in international bodies and with agencies and interests involved in the fight against corruption.³²

- Express its opinion on relevant laws to prevent and combat corruption.³³

-To activate international and national anti-corruption by developing a National Strategy for Transparency, Prevention, and Combating Corruption, in Order to embodying the principles of the rule of law, promoting public life, and advancing participatory democracy.³⁴

2.1.2. Second section: Competencies of a supervisory nature

-To monitor the compliance of public administrations, public institutions, economic institutions, associations and other institutions with the obligation to comply with the standards of transparency and prevention of corruption, and the quality, effectiveness and adequacy of their implementation.³⁵

- Periodically evaluate legal systems related to transparency, prevention of corruption and administrative measures and their effectiveness, and propose appropriate mechanisms to improve them, by submitting recommendations that help in the development of appropriate measures for each body.³⁶

2.1.3. Third section: Competencies of a procedural nature

The Algerian legislator has given special powers to the Higher Authority for Transparency and Prevention of Corruption. It is no longer restricted to prevention only, but has also gone beyond other powers that have a procedural character:

-Collect, process, and communicate information related to its area of competence to the competent bodies.

- Notify the Accounting Board and the competent judicial authority whenever it sees any irregularities, and issue orders to the institutions and agencies concerned³⁷. If the Higher Authority for Transparency and Prevention of Corruption confirms that acts described in partisan form have been committed, it may notify the competent Public Prosecutor regionally, and if the acts fall within the competence of the Accountability Board, it shall notify him thereof³⁸. It is noteworthy that this relationship between the Higher Authority for Transparency and Prevention of Corruption and the judiciary was not in the hands of the National Authority for Prevention and Combating of Corruption, so the Authority could not directly notify the Public Prosecutor, but must refer the file to the Minister of Justice³⁹, who notifies the

³² Article 4 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

³³ Article 205 of Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

³⁴ Daim Nawal, Derrar Abdelhadi, The Newly Established Constitutional Mechanism for Prevention and Combating Corruption In Algerian Constitution of 2020 and Legal Texts, Russian Law Journal, Volume XII, Issue 1, 2024, page 1063.

³⁵ Article 7 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

³⁶ Article 8 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

³⁷ Article 205 of Presidential Decree No. 20-442 on the Constitutional Amendment of 30 December 2020. Official Gazette 82, 30 December 2020.

³⁸ Article 12 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

³⁹ Jazul Saleh, Property Declaration Mechanism for Preventing and Combating Corruption, Researcher Academic Studies, Volume 8, 2, April 2021, p. 128.

competent Public Prosecutor to initiate public action when necessary, following Article 22 of Law No. 06-01 on the prevention and combating of corruption.⁴⁰

- The power to conduct administrative and financial investigations. Among the activities of the Higher Authority is the stipulation of Article 4 of Law No. 22-08, which grants it the power to receive property declarations and ensure that they are dealt with the law. If a significant increase in the financial liability of an employee who has been unable to justify them is established by the Higher Authority for Transparency and Prevention of Corruption, the Higher Authority is responsible for conducting administrative and financial investigations into the illicit enrichment of a public official.⁴¹

If it is proved that there is undue wealth for the public official, it can submit a report to the representative of the public prosecution in the wisdom of Sidi Mohamed in order to issue provisional measures to freeze banking operations or seize property for 30 months by a judicial order issued by the President of the Court.

2.2. Second requirement: Evaluate the effectiveness of the powers granted to the Higher Authority for Transparency and Prevention of Corruption

To strengthen the criminal policy against corruption, the Algerian legislature has created the Higher Authority for Transparency, Prevention and Control of Corruption to activate preventive mechanisms in support of transparency, oversight and accountability. The role of the Higher Authority for Transparency, Prevention and Combating of Corruption is no longer limited to the implementation of preventive policies. It has expanded its powers beyond advisory functions to supervisory tasks, while also giving a dynamic role in prevention, to make it able to combat corruption and to activate the governance, integrity and transparency of public administrations. Accordingly, we can assess the effectiveness of the powers granted to the Higher Authority for Transparency, Prevention and Combating Corruption under Law No. 22-08 in the following points:

- To emphasize respect for the principle of transparency, through the annual report submitted by the Higher Authority for Transparency, Prevention and Combating of Corruption to the President of the Republic and informing public opinion about it. The principle of transparency is also reflected in the cooperation and information exchange between the Higher Authority and various national and international bodies.

- Strengthening the role of the Higher Authority for Transparency and Prevention of Corruption in developing a national strategy for the prevention of corruption and ensuring its implementation; this was not permitted to the National Authority for the Prevention of Corruption. Its role was limited to developing this strategy without following up on its implementation.

- Activating the supervisory role of the Higher Authority for Transparency and Prevention of Corruption, the law granted it the power to issue excuses to any natural or moral person who violates the rules of integrity, and granted it the right to issue recommendations to limit such behavior.

- Strengthening the direct link between the Higher Authority for Transparency and Prevention of Corruption and the judiciary, since it is the authority authorized to notify the judiciary upon proving criminal acts, and the absence of such link between the judiciary and the National Authority for the Prevention and Combating of Corruption, which must notify the Minister of Justice of acts of a penal description and who is responsible for referring the file to the Public Prosecutor.

- We appreciate the fact that the Higher Authority is enshrined in transparency and prevention of corruption, which is embodied in the independence of members, in terms of its organization in Law No. 22-08, which defined the composition of the Higher Authority and how it is appointed, in terms of the term of its membership, and in terms of the fact that it is not subject to isolation except in the cases specified by law. In terms of administrative and financial independence, the law grants them

⁴⁰ Anan Karima, Declaration of Property as a Mechanism for Prevention of Corruption, Algerian Journal of Business Law, Volume 2, 1, December 2021, p. 251.

⁴¹ Article 4 of Law No. 22-08 on the Organization of the High Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. Official Gazette 32, 14 May 2022.

independence from the three branches of government, which are essential guarantees that enable them to perform their duties in preventing and combating corruption impartially and without any pressures.

CONCLUSION

Through this study, we present the following recommendations:

- The Higher Authority for the Prevention and Control of Corruption should be granted the power to issue orders with binding force, such as the order to seize property or freeze bank operations for a certain period in the case of suspected corruption, in order to activate and accelerate the prosecution authority, especially since its composition includes judges who are familiar with the legal procedures for follow-up.
- To make the powers of the Higher Authority for Transparency and Prevention of Corruption effective, it must be given the power to impose sanctions. Its role should not be limited to receiving notifications and conducting some administrative and financial investigations. It should issue recommendations to take the necessary measures to limit violations.
- The need to promote digitization in the work of the Higher Authority for the Prevention and Combating of Corruption, especially concerning the mechanism of property declaration, to facilitate the transfer of information and verify its validity.
- In order to strengthen the independence and neutrality of the higher authority for transparency and the prevention and combating of corruption, it must be pluralistic in appointing the members of the higher authority, and not limited to appointing the president of the republic to avoid the suspicion of being subjected to pressures from the executive authority.

REFERENCES

[1] Constitutions:

- The Constitutional Amendment of 2020 issued by the Presidential Decree No. 20-442 of 30 December 2020, *Official Gazette* 82, 30 December 2020.
- The Constitutional Amendment of 2016 issued by Law No. 16-01 of 6 March 2016, *Official Gazette* 14, 7 March 2016.

[2] Laws:

- Law No. 06-01 on the prevention and control of corruption of 20 February 2006. *Official Gazette* 14, 08 March 2006.
- Law No. 22-08 on the Organization of the Higher Authority for Transparency, Prevention and Combating of Corruption, promulgated on May 05, 2022. *Official Gazette* 32, 14 May 2022.

[3] Decrees:

- Decree No. 04-128 of 19 April 2004 ratifying with reservation the Convention against Corruption adopted by the United Nations General Assembly in New York on 31 October 2003. *Official Gazette* 26, 25 April 2004.
- Decree N° 06-137 of 10 April 2006 ratifying by African Union Convention on Preventing and Combating Corruption adopted in Maputo on July 11, 2003. *Official Gazette* N° 24, 16 April 2006.
- Decree N° 14-249 of 8 September 2014 ratifying the Arab Convention against corruption adopted in Cairo on December 21, 2010. *Official Gazette* N° 54, 21 September 2014.

[4] Theses and Dissertations:

- Mohammed bin Ahmed bin Ali al-Kathiri (2018), *Mechanisms for Combating Financial Corruption in International Charters and the Saudi Regime*, Magister's Thesis, Al-Sharq Al-Arabi Graduate School, Saudi Arabia.

[5] Journal Articles

- Anan Karima, *Declaration of Property as a Mechanism for Prevention of Corruption*, *Algerian Journal of Business Law*, Volume 2, 1, December 2021. (URL: <https://asjp.cerist.dz/en/article/172872>)
- Belatel Ayache, *An Economic reading of legal and constitutional mechanisms to curb the phenomenon of corruption in Algeria*, *El Bahith Review*, 21, 2021.
- Daim Nawal, Derrar Abdelhadi, *The Newly Established Constitutional Mechanism for Prevention and Combating Corruption In Algerian Constitution of 2020 and Legal Texts*, *Russian Law Journal*, Volume XII, Issue 1, 2024. (URL: <https://russianlawjournal.org/index.php/journal/article/view/3855>)
- Dinsha Mistree, Arjuna Dibley, *Corruption and the paradox of transparency*, *Working Papers Series*, Stanford Law School, March 2018. (URL : <https://law.stanford.edu/publications/corruption-and-the-paradox-of-transparency/>)
- Gharbi Ahsan, *Higher Authority for Transparency, Prevention and Combating of Corruption under the Constitutional Amendment 2020*, *Research Journal*, Volume 6, 1, 2021. (URL : <https://asjp.cerist.dz/en/article/153349>)



- Gomiri Hamidiya, *Effectiveness of the Anti-Corruption Mechanism in Algeria*, "National Authority for Combating Corruption, Central Bureau for the Suppression of Corruption", *Al-Biban Journal of Legal and Political Studies*, volume 7, 1, June 2022. (URL : <https://asjp.cerist.dz/en/article/194105>)
- Jazul Saleh, *Property Declaration Mechanism for Preventing and Combating Corruption*, *Researcher Academic Studies*, Volume 8, 2, April 2021. (URL : <https://asjp.cerist.dz/en/article/109406>)
- Linda Baghdadi, *Priority of preventive policy over repressive policy in combating money laundering under Law No. 06-01 on preventing and combating corruption*, *Journal of Legal Analyst*, Volume 5, 1, June 2023. (URL : <https://asjp.cerist.dz/en/article/225184>)
- Mouzaoui Akila, *Algerian Constitutional Institutions Active in Governing in Accordance with the 2016 Constitution*, *Journal of Legal Studies*, Volume 4, 1, January 2018. (URL : <https://asjp.cerist.dz/en/article/43427>)
- Othman Huitheg, Mohamed Lamine Sellekh, *Legal System of the Higher Authority for Transparency, Prevention and Combating of Corruption*, *Journal of Legal and Political Sciences*, Volume 13, 1, April 2022. (URL : <https://asjp.cerist.dz/en/article/186431>)
- Vito Tanzy, *Corruption around the word: causes, consequences, scope, and curses*, IMF Working Paper, International Monetary Fund, May 1998. (URL: <https://www.imf.org/en/Publications/WP/Issues/2016/12/30/Corruption-Around-the-World-Causes-Consequences-Scope-and-Cures-2583>)