



Aspects of Good Governance in Law No. 06-01 (amended and supplemented)

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Abstract:

Within the framework of criminal policy, the punitive approach towards offenders is no longer the sole method, as it has become aligned with the adoption of proactive and preventive measures, where Law No. 06-01 on the prevention and fight against corruption (amended and supplemented) embodies the evolution of this criminal policy.

This research paper seeks to highlight the manifestations of good governance in the provisions introduced by this law, in line with constitutional provisions aimed at combating corruption, as the Algerian legislator has established procedural and substantive provisions to implement preventive and punitive measures alike, while enhancing integrity, transparency, and accountability in

the management of both public and private sectors; furthermore, the law incorporates civil society engagement in this regard, under a participatory strategy that has become one of the modern governance tools and mechanisms – a manifestation of good governance.

Keywords: *Criminal policy, proactive measures, integrity and transparency, institutional system, good governance.*

Aspects de la bonne gouvernance dans la loi n° 06-01 (modifiée et complétée)

Résumé :

Dans le cadre de la politique pénale, l'approche punitive à l'égard des délinquants n'est plus la seule méthode, car elle s'est alignée sur l'adoption de mesures proactives et préventives, la loi n° 06-01 relative à la prévention et à la lutte contre la corruption (modifiée et complétée) incarnant l'évolution de cette politique pénale.

Cet article de recherche vise à mettre en évidence les manifestations de la bonne gouvernance dans les dispositions introduites par cette loi, conformément aux dispositions constitutionnelles visant à lutter contre la corruption, le législateur algérien ayant établi des dispositions procédurales et substantielles pour mettre en œuvre des mesures préventives et punitives, tout en renforçant l'intégrité, la transparence et la responsabilité dans la gestion des secteurs public et privé. en outre, la loi intègre l'engagement de la société civile à cet égard, dans le cadre d'une stratégie participative qui est devenue l'un des outils et mécanismes modernes de gouvernance, manifestation d'une bonne gouvernance.

Mots clés : *Politique pénale, mesures proactives, intégrité et transparence, système institutionnel, bonne gouvernance.*



Introduction

Contemporary criminal justice systems worldwide are undergoing a paradigm shift from purely punitive approaches toward more holistic governance models that emphasize prevention, participation, and institutional integrity, as Algeria's legal framework has mirrored this global evolution, particularly through reforms embodied in Law No. 06-01 on the Prevention and Fight Against Corruption (amended and supplemented), where this legislation represents a significant departure from traditional repressive measures, instead adopting a dual strategy that combines deterrent mechanisms with innovative preventive approaches and participatory governance structures.

The amended legislation reflects Algeria's commitment to international anti-corruption standards while responding to domestic imperatives by establishing comprehensive mechanisms for transparency, accountability, and civic engagement, as the law operationalizes constitutional principles introduced in the pivotal 2020 constitutional amendments, as well as these provisions collectively advance what scholars recognize as the core pillars of good governance: participatory decision-making, rule of law, effectiveness, equity, and institutional accountability.

This study undertakes a critical examination of how Law No. 06-01 institutionalizes good governance principles within Algeria's anti-corruption framework, illuminating Algeria's innovative approach to combating corruption.

The central research question guiding this inquiry is: What are the provisions that highlight the manifestations of good governance in Law No. 06-01 (amended and

supplemented)? This examination proves particularly timely as nations globally grapple with implementing governance targets.

1. Adopting a Proactive Strategy to Combat Corruption

Within the framework of the criminal policy pursued by the Algerian legislature, the repressive aspect against perpetrators of crimes is no longer the sole approach; although the nature of the field remains criminal, involving penal prosecution and the imposition of legally prescribed penalties, the Algerian legislator has introduced a perspective and established a strategy that contributes to combating corruption through the adoption of proactive and preventive measures within criminal policy, this reflects good governance, which seeks to prevent the occurrence of corruption crimes through these mechanisms¹, where Law No. 06-01, as amended and supplemented, included provisions mandating the adoption of a set of proactive measures (First Section), as well as the involvement of civil society due to its crucial role in implementing this strategy (Second Section).

First Requirement: Adopting a Set of Preventive Measures

The preventive approach holds significant importance in combating corruption, as it consists of a series of measures and procedures established by the Algerian legislator to support the achievement of this objective, while promoting

¹- Law No. 06-01 of February 20, 2006, relating to the prevention and fight against corruption, (Official Gazette) No. 14 of 2006, (amended and supplemented) by:

Order No. 10-05 of August 26, 2010, (Official Gazette) No. 50 of 2010.

Law No. 11-15 of August 2, 2011, (Official Gazette) No. 44 of 2011.



integrity, transparency, and accountability in the management of both the public and private sectors¹, these measures are outlined in Chapter Two of the aforementioned law and cover various areas, including provisions related to the public sector (First Part) and the private sector (Second Part).

1.1. Measures Related to the Public Sector

These measures, across their various domains, are based on the principles of transparency, integrity, accountability, and objective standards—key aspects of good governance—and encompass the following areas:

1.1.1. Employment Sector

The proactive measures in the recruitment of public employees and the management of their professional careers emphasize adherence to the principles of efficiency, transparency, and objective standards such as merit, fairness, and competence, given the importance of this process, as public employees are central to the application and respect of legal provisions and are considered a fundamental pillar under Law No. 06-01 (amended and supplemented), where this law provides a specific, broad, and distinct definition of a public employee, encompassing anyone holding a legislative, executive, judicial, or other position—an expansion unique to this law to ensure no one escapes its provisions².

¹ - Article 1 of Law No. 06-01 (amended and supplemented).

² - The expanded special concept of public employee is defined in Article 2 of Law No. 06-01 (amended and supplemented).

These standards serve as general provisions, while their detailed application is specified in relevant laws. Various legal texts have been enacted to embody these principles, most notably Executive Decree No. 06-03¹, which contains the General Statute of the Public Service, and related regulatory texts, including Executive Decree No. 129-12, which outlines the procedures for organizing competitions, examinations, and professional assessments².

1.1.2. Asset Declaration

This is one of the most important mechanisms introduced by this law, detailing the procedures, the officials required to declare their assets, and the authority responsible for receiving such declarations, to combat illicit enrichment, as presidential Decree No. 06-415 specifies the procedures for asset declaration for employees not covered by the law on the prevention and fight against corruption³.

This mechanism seeks to monitor the financial status of public employees to verify any changes that may occur during their careers, thereby preventing any practices that could lead to rapid wealth accumulation, a potential factor in corruption offenses⁴.

¹- Order No. 06-03 of July 15, 2006, containing the general basic law for the civil service, (Official Gazette) No. 46 of 2006, (supplemented).

²- Executive Decree No. 12-194 specifying the methods for organizing and conducting competitions, examinations and professional tests in public institutions and administrations, (Official Gazette) No. 26 of 2012.

³- Presidential Decree No. 06-415 of November 22, 2006, specifying the procedures for declaring assets for public officials not covered by Article 6 of the Law on the Prevention and Fight against Corruption, (Official Gazette) No. 74 of 2006.

⁴- Souheila Boukhmis, The Role of Asset Declaration in the Prevention of Corruption in Algerian Legislation, Al-Nabras Journal of Legal Studies,



Under Law No. 06-01, asset declarations must be submitted by the President of the Republic, members of Parliament, the President of the Constitutional Court¹, the Prime Minister and cabinet members, the President of the Audit Court, the Governor of the Bank of Algeria, ambassadors, consuls, governors, and judges to the First President of the Supreme Court, where the contents of these declarations must be published in the Official Gazette within two (02) months of the concerned individuals' election or assumption of office².

For elected heads of local people's councils, asset declarations must be submitted to the High Authority for Transparency and posted on the municipal or provincial notice board, as applicable³, for one month, as these measures exemplify good governance by ensuring transparency and public accountability.

In addition to the provisions of Law No. 06-01, the Algerian legislature, through Law No. 22-08, granted the High Authority the power to investigate signs of illicit enrichment among public employees who cannot justify significant increases in their financial assets, as the High Authority's investigations may extend to any individual suspected of

Volume 4, Issue 1, Faculty of Law and Political Science, University of Larbi Tebessi - Tebessa, Algeria, 2019, p. 60.

¹- Whereas the text obliges the President of the Constitutional Council, and following the transition to adopting the Constitutional Court system instead, the President of the Constitutional Court is obligated to declare assets.

²- (Article 6) of Law No. 06-01 (as amended and supplemented).

³- Pursuant to Law No. 22-08 of May 5, 2022, which defines the organization, composition, and powers of the High Authority for Transparency, Prevention and Combating Corruption (Official Gazette) No. 32 of May 14, 2022, we will discuss its role in greater detail later in the second section.

assisting in concealing unjustified wealth if it is determined that the public employee is the true beneficiary, where the authority may also request written or oral clarifications from the concerned individual¹.

1.2. Measures Concerning the Private Sector

As part of the expanded strategy to combat corruption, the Algerian legislator has established binding measures targeting the private sector, given its pivotal role and significance to prevent its involvement in corrupt practices, while stipulating, where necessary, effective, proportionate, and deterrent disciplinary sanctions for violations²; thus, the private sector is thus required to enhance cooperation with detection and enforcement authorities, as well as to develop standards and procedures to safeguard the integrity of relevant private-sector entities—including codes of conduct—to ensure that businesses and all related professions operate normally, ethically, and soundly, thereby preventing conflicts of interest, promoting good business practices among firms and in their contractual relations with the state, fostering transparency between private-sector entities, preventing the misuse of procedures governing these entities, and implementing internal audits of private firms' accounts³.

The codes of conduct for public officials refer to those containing rules on professional ethics and conduct about

¹- Sharifa Khaldi, Declaration of Assets before the High Authority for Transparency, Prevention and Combating Corruption, Journal of Social and Human Sciences, Volume 15, Issue 2, Faculty of Law and Political Science, University of Larbi Tebessi - Tebessa, Algeria 2022, p. 164.

²- Article 13 of Law No. 06-01 (as amended and supplemented).

³- Article 14 of Law No. 06-01 (as amended and supplemented).



public employees, which complement and extend the duties of public officials as stipulated in Executive Order No. 06-03 (as amended) and the internal regulations of public and economic institutions, where these codes embody a set of ethical values, principles, and standards with an awareness-raising, advisory, and guiding function, aimed at ensuring compliance with the law and adherence, at a minimum, to the values of integrity, transparency, and accountability¹, because the private sector is legally bound to respect the laws governing inter-entity relations and those between the sector and the state. Furthermore, the Algerian legislator mandates that private entities implement internal safeguards to protect both employees and the proper execution of assigned duties by adhering to transparency and integrity standards, thereby complying with anti-corruption preventive measures, while in parallel, the legislator has criminalized corrupt acts within the private sector under punitive provisions, including bribery, embezzlement, and unjustified advantages in public procurement involving private entities².

First Requirement: The Involvement of Civil Society

Among the prominent manifestations of good governance is the engagement of civil society in combating corruption by granting it a participatory and advisory role in management, as civil society now encompasses a broad

¹- Ajabi Elias, Preventive Strategy of the Law on the Prevention and Fight against Corruption under Law 06-01, *Elbahith Journal of Legal and Political Studies*, Volume 7, Issue 2, Faculty of Law and Political Science, University of Mohamed Boudiaf-M'sila, Algeria, 2022, p. 1054.

²- Articles 27, 40, and 41 of Law No. 06-01 (as amended and supplemented).

array of legal entities, both public and private, where the constitutional framers, in the 2020 constitutional amendment¹, emphasized and reinforced its standing, which had previously been recognized and enshrined, as it strengthens participatory democracy at the level of local communities (Article 16), and through these constitutional foundations, the framers sought to solidify the role of civil society, which holds a significant position within the framework of participatory strategies that have become key tools of modern governance.

Algerian legislators, under Law No. 06-01, mandated the encouragement of civil society participation in preventing and combating corruption by promoting transparency in decision-making and enhancing citizen involvement in public affairs management in aligns with constitutional provisions related to participatory approaches in this field², while following the constitutional entrenchment of participatory democracy, and in addition to the legal mechanisms established by Algerian legislators – particularly in the Municipal and Wilaya Codes –, as the constitutional framers, through the 2020 amendment, further encouraged it via civil society; consequently, a specific regulatory framework was issued to structure civil society activities, reinforcing the practice of participatory democracy under the constitutional provisions.

Through this regulation, a new body was established: the National Observatory for Civil Society, created by

¹- The Constitutional Amendment of 2020, issued by Presidential Decree No. 20-442 of December 30, 2020, concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020, (Official Gazette) No. 82 of December 30, 2020.

²- Article 15 of the Constitutional Amendment of 2020.



Presidential Decree No. 21-139, which operates under the President of the Republic and serves as a platform for dialogue, consultation, proposal-making, analysis, and foresight on all matters about civil society and the enhancement of its performance, where its duties, as outlined in Article 4 of the decree, include contributing to the promotion of national values, collaborating with other institutions to achieve national development goals, and providing opinions, recommendations, and proposals regarding the status of civil society, its concerns, and mechanisms for strengthening its role in public life—all within a participatory democratic framework, additionally, it offers guidance to various civil society actors to bolster their operational capacities in fieldwork¹.

2. Adopting an Institutional Framework Alongside Digital Transformation as a Manifestation of Governance

The implementation of anti-corruption policies hinges on the work of various institutions as stipulated by the legal system, as some institutions are specialized exclusively in this field, while others have broader oversight and monitoring functions, exercising their role within a general framework; additionally, judicial safeguards—both ordinary and administrative—play a crucial role, where the manifestations of good governance at the institutional level are examined under Law No. 06-01 (as amended and supplemented), which mandates a specialized constitutional

¹- Choueirb Djilali, Akkouche Fathi, The Orientation Towards Encouraging Participatory Democracy, *Journal of Legal and Political Thought*, Volume 6, Issue 2, Faculty of Law and Political Science, Amar Telidji University - Laghouat, Algeria, 2022, p. 1025.

body (addressed in Section One) and reinforces the work of the specialized authority by establishing an anti-corruption office (addressed in Section Two).

First Requirement: Mandating a Specialized Constitutional Body as a Mechanism for Good Governance

With the enactment of Law No. 06-01 (as amended and supplemented), the Algerian legislature established a specialized body for preventing and combating corruption¹; however, the 2020 constitutional amendment replaced this body with a Supreme Authority², which retains the powers of its predecessor while being granted new prerogatives to reinforce the national anti-corruption strategy, where the constitutional framers endowed this authority with a set of explicit powers, while delegating to the law the determination of its additional functions, as among its proactive responsibilities, the authority is tasked with³:

- Formulating the national anti-corruption strategy;
- Making collected and processed information related to its mandate available to relevant agencies;
- Strengthening the capacities of civil society and other stakeholders;
- Promoting ethics in public life, transparency, good governance, and anti-corruption measures;
- Providing opinions on legal texts within its domain.

The constitutional amendment introduced new decision-making powers for this Supreme Authority, enabling it to

¹- The former body was the National Authority for the Prevention and Fight against Corruption, which has now been replaced by the High Authority for Transparency, Prevention and Fight against Corruption.

²- Constitutional Amendment of 2020, Article 204.

³- Constitutional Amendment of 2020, Article 205.



issue binding regulatory decisions concerning the national anti-corruption strategy to enhance transparency and integrity – key factors in combating corruption – are mandatory for all national institutions, which represents a significant expansion of authority compared to the previous body, whose role was limited to proposing preventive policies without enforcement mechanisms¹.

Upon examining Law No. 22-08 concerning the Supreme Authority, proactive action constitutes a significant aspect of its competencies, alongside its other multifaceted powers; within this framework, it may undertake preparatory work to adopt precautionary measures, as it is authorized to submit a report to the Public Prosecutor at the Sidi M'hamed Court if substantial evidence indicates unjustified enrichment of a public official, intending to secure precautionary measures to freeze bank transactions or seize assets for three months, via a judicial order issued by the presiding judge of said court; additionally, it monitors the compliance of public administrations, local authorities, public economic institutions, associations, and other entities with transparency regulations and anti-corruption measures, while conducting administrative and financial investigations into instances of illicit enrichment by public officials who cannot justify a significant increase in their financial holdings; it may also request written or oral clarifications from public officials or legal entities, as well as notifying the territorially competent Public Prosecutor and the Court of

¹- Al-Eid Berbash, Ait Chaalal Nabil, Guarantees for Combating Financial Corruption and Their Role in Rationalizing State Financial Appropriations, Algerian Journal of Law and Political Science, Volume 9, Issue 1, Institute of Legal and Administrative Sciences, Ahmed Ben Yahya Al-Wansharisi University Center - Tissemsilt, Algeria, 2024, p. 11.

Auditors, when it encounters facts bearing criminal characteristics¹.

The Algerian legislature also established the Central Office for the Suppression of Corruption to complement the preventive role with deterrent and punitive powers, thereby completing the cycle of anti-corruption efforts, which are fundamentally built on prevention first, followed by suppression and deterrence, where this office was created in implementation of Presidential Directive No. 03 on Activating Anti-Corruption Measures, dated December 13, 2009, which emphasized the necessity of reinforcing anti-corruption mechanisms and supporting them at both institutional and operational levels, which further solidified by the issuance of Executive Order No. 10-05, which amended and supplemented the law on the prevention and suppression of corruption, adding Chapter III bis, followed by Presidential Decree No. 11-426 was issued, defining its composition, organization, and operational procedures, with its mandate strictly limited to investigating and prosecuting corruption offenses².

The office is tasked with gathering all information enabling the detection and suppression of corrupt practices,

¹- Akkou Fatima Zahra, The Effectiveness of the Role of the High Authority for Transparency, Prevention, and Combating Corruption after the Issuance of Law 22-08, *Journal of Algerian and Comparative Public Law*, Volume 8, Issue 2, Public Services and Development Laboratory, Faculty of Law and Political Science, Djilali Liabes University, Sidi Bel Abbes, Algeria, 2022, pp. 504-505.

²- Haha Abdelali, "Legal Mechanisms for Combating Administrative Corruption in Algeria," a thesis submitted for a PhD in Public Law, Faculty of Law and Political Science, University of Mohamed Khider, Biskra, Algeria, 2014, pp. 501-503.



as well as rationalizing the use of state financial allocations; in addition, it collects all evidence and conducts necessary investigations into acts classified as corruption crimes, referring perpetrators to the competent judicial authorities, and it also fosters cooperation with various bodies dedicated to combating corruption to facilitate information exchange during investigations¹.

The Office constitutes an institutional mechanism for suppressing corruption, distinguished by a set of characteristics that contribute to defining its legal nature and determining its role in anti-corruption efforts; as an operational judicial police service, it is entrusted with investigating, detecting, and documenting corruption-related crimes, thus sharing fundamental similarities with other judicial law enforcement bodies, given that the majority of its personnel consists of judicial police officers and agents affiliated with the Ministries of National Defense and Interior; consequently, it does not qualify as an administrative authority and therefore cannot issue administrative decisions in the field of anti-corruption, but rather operates as an entity exercising its competencies under judicial supervision and control, with its primary mission focusing on investigating corruption offenses and referring perpetrators to the justice system².

Second requirement: Digital Transformation at the Institutional Level as a Manifestation of Good Governance

The current adoption of digitalization holds paramount importance across all fields, serving as a critical mechanism

¹ - Eid Barbash, Ait Chaalal Nabil, op cit, p. 14.

² - Haha Abdelali, op cit, pp. 503-504.

for embodying the principles of good governance and combating corruption; it significantly enhances transparency standards through digital transformation, while also functioning as a tool for detecting corrupt practices and stands as one of the most prominent mechanisms for activating civil society engagement, as digitalization refers to the process of converting information and data from analog to digital systems, a development intrinsically linked to the emergence of information and communication technologies, where it serves as an effective mechanism for improving service quality to citizens and eradicating administrative corruption in all its forms and negative effects, given that the role of digitalization lies in materializing transparency, strengthening administrative democracy, and refining inter-institutional relations to delivering services at lower costs, within fixed timeframes without delays, and with high precision tailored to citizen needs, as well as it also simplifies procedures, eliminates administrative burdens, and ensures transparency—one of the most vital pillars of sound governance, which is further realized by making all data and information accessible to citizens¹.

Within the context of digital transformation applications at the institutional level, and with the aim of prevention and enhancing civil society's contribution to anti-corruption efforts, the Algerian Transparency Network "Narakoum" was launched under Article 04 of Law No. 22-08, serving as a tangible manifestation of leveraging digitalization to accelerate and streamline these objectives, where the

¹- Dilem Jamila, Bouras Abdelkader, The Role of Digitization in Combating Administrative Corruption at the Public Service Level, Journal of Social and Human Sciences, Volume 25, Issue 2, University of Batna 1, Hadj Lakhdar, Algeria 2022, p. 31.



adoption of such systems has become an urgent necessity, evolving into a normative practice, as it is inconceivable, amid this technological progress, not to capitalize on its benefits—a reality reflected in the existence of "Narakoum", designed to serve civil society in all its facets to reinforcing the principles of transparency that underpin participatory democracy, given the undeniable role of digital tools in fostering public participation in governance, whether through information dissemination, access, interaction, or other means that facilitate engagement and communication with relevant institutions, which underscores the symbiotic relationship between this virtual network—as one of the instruments established to advance these objectives—and the broader pursuit of the public benefit¹.

This network is a digital platform that facilitates access to information and data related to the prevention and fight against corruption, as it provides a safe and secure space for civil society actors to facilitate remote reporting of corruption, while the overall purpose of this network is to provide a participatory and integrated space for implementing and monitoring the implementation of the National Strategy to Combat Corruption, by providing a digital space that supports civil society, allowing for the exchange of expertise, experiences, knowledge, and information among them, and providing a framework for submitting testimonies and reporting corruption, as its

¹- Akkouch Fathi, Chouaib Djilali, The Role of the Algerian Transparency Network "Nrakom" in Preventing and Combating Corruption, Academic Journal of Legal and Political Research, Volume 8, Issue 1, Faculty of Law and Political Science, Amar Telidji University - Laghouat, Algeria, 2024, pp. 751-752.

adoption is a pillar of the role assigned to the highest authority in promoting the principles of transparency, as this highest authority has been granted the authority to use technological means in light of the current digitization to place them in service of the principles aimed at promoting participation, which effectively reflected in the establishment of this virtual network, which enables the simplification of procedures that serve this participatory mechanism¹.

Conclusion:

The preceding analysis demonstrates that Law No. 06-01 (as amended and supplemented) embodies the principles of good governance through its legislative provisions, which align with constitutional mandates emphasizing anti-corruption measures, as it establishes critical procedural and substantive rules while granting expanded authority to the Supreme Authority for Transparency, Prevention, and Combating of Corruption—replacing the previous body under the 2020 constitutional amendment, with Law No. 22-08 serving as its specific regulatory framework; In this regard, the Algerian legislator adopted a comprehensive criminal strategy within this law, imposing mandatory measures on both public and private institutions, with a focus on proactive corruption prevention, as the text includes general provisions enhancing transparency, setting substantive standards, and detailing procedural mechanisms, while addressing specific areas such as asset

¹ - Ibid., pp. 747-750.



declaration with precise regulations, whereas other domains are governed by broader frameworks that defer implementation details to relevant specialized legislation.

A notable manifestation of good governance in this law is the legislative empowerment in leveraging technological tools, evident in the Supreme Authority's operational support through the launch of the digital Algerian Transparency Network platform, complementing the repressive dimension of anti-corruption criminal policy, as the law grants the Authority new investigative and enforcement powers; thus, the dual-pillar strategy – prioritizing prevention while reinforcing deterrence – exemplifies good governance through the procedural and substantive provisions enacted in compliance with constitutional directives.

The analysis concludes that the law reflects good governance through multiple dimensions, procedurally by enhancing transparency, regulating employment procedures, establishing accountability standards, and enforcing codes of conduct, and substantively through asset disclosure rules and sector-specific regulations applicable to both public and private entities, while institutionally, good governance is materialized through the creation of a constitutional body specialized in transparency and anti-corruption, endowed with broad authority, alongside the integration of digital transformation as a cornerstone of modern institutional governance.

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