



Fight against Corruption in Algeria in Light of the 2020 Constitutional Reforms

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Abstract

The Algerian state, in its efforts to combat the alarming spread of corruption, has undertaken institutional reforms to empower the relevant authorities. As part of the 2020 constitutional amendment, a new authority, the High Authority For Transparency, Prevention And Fight Against Corruption, was enshrined in the Constitution and granted oversight functions by being included in the chapter dedicated to supervisory authorities. Additionally, it was endowed with authoritative status and structured through a dedicated law rather than a regulatory framework. However, our research has revealed that its composition is largely subordinate to the executive branch, and its powers are too fragmented to effectively and efficiently fulfill its mandate. Furthermore, the absence of provincial delegations hinders its functioning spread from the regional perspective.

Keywords: Corruption; Authority; Transparency; Delegation; Constitutional Reform

Lutte contre la corruption en Algérie à la lumière des réformes constitutionnelles de 2020

Résumé

L'État algérien, dans ses efforts pour lutter contre la propagation alarmante de la corruption, a entrepris des réformes institutionnelles afin de renforcer les autorités compétentes. Dans le cadre de la révision constitutionnelle de 2020, une nouvelle autorité, la Haute Autorité pour la Transparence, la Prévention et la Lutte contre la Corruption, a été consacrée dans la Constitution et s'est vu attribuer des fonctions de contrôle en étant intégrée au chapitre dédié aux autorités de supervision. De plus, elle a été dotée d'un statut d'autorité et structurée par une loi spécifique plutôt que par un cadre réglementaire. Cependant, notre recherche a révélé que sa composition demeure largement subordonnée au pouvoir exécutif et que ses prérogatives sont trop fragmentées pour lui permettre d'accomplir efficacement et de manière efficiente son mandat. En outre, l'absence de délégations provinciales entrave son fonctionnement dans une perspective régionale.

Mots clés: Corruption ; Autorité ; Transparence ; Délégations ; Réforme constitutionnelle



Introduction

Administrative and financial corruption is a pervasive issue that plagues both developed and underdeveloped societies, given its detrimental effects on economic, social, and political development. Therefore, combating and curbing its spread is imperative.

Like many other nations, Algeria has long struggled with administrative and financial corruption across various sectors. Despite its continuous efforts to fight this phenomenon, the country has consistently ranked below average on the Corruption Perceptions Index (CPI)ⁱ.

In its pursuit of eradicating corruption, Algeria has aimed to foster a transparent and credible environment conducive to investment. Furthermore, it was compelled to honor its commitments after signing international anti-corruption conventions. To this end, the state-initiated reforms in the legislative framework governing corruption and established institutional mechanisms for its prevention and suppression. The first step in this process was the enactment of Law 06/01 on the **Prevention and Combat against Corruption**, which served as the basis for the creation of the **National Body for the Prevention and Fight Against Corruption**.

However, the **National Body for the Prevention and Fight Against Corruption** then lacked complete independence, as it operated under the authority of the Head of State. Besides, the creation of the **National Anti-corruption Office** failed to curb the widespread proliferation of corruption across most state institutions, particularly in the absence of genuine political will to combat and curb it. This situation culminated in nationwide

protests in February 2019, where various segments of the population went on manifestation, advocating for reform, the ethical renewal of public life, and the liability of unethical administrators.

In response, the constitutional legislature, via the 2020 Constitutional Amendment, established a new entity—the High Authority—granting it financial, administrative, and functional independence to enhance its effectiveness in combating corruption. To implement this reform, Law 22/08 was enacted to define the structure, organization, powers, and responsibilities of this authority.

This leads us to the fundamental research inquiry:

Is the High Authority for Transparency, Prevention and Fight against Corruption a novel instrument for fighting corruption, or simply a continuation of the previous approach?

Through this research paper, we will attempt to address this question using a descriptive and analytical methodology, following this plan:

- **Section One:** Concept of the High Authority for Transparency, Prevention and Fight against Corruption
- **Section Two:** Structure and Powers of the High Authority for Transparency, Prevention and Fight against Corruption
- **Section Three:** Assessment of the Role of the High Authority in Combating Corruption

1. Concept of the High Authority for Transparency, Prevention and Fight against Corruption

To deliver a comprehensive understanding of the High Authority, we begin by examining the legal framework



underpinning its establishment, followed by a detailed discussion of its definition.

1.1. Legal Basis for the Establishment of the High Authority for Transparency, Prevention and Fight against Corruption

The legal basis underpinning the High Authority for Transparency, Prevention, and Fight against Corruption is anchored in the provisions of the Algerian Constitution, the United Nations Convention Against Corruption (UNCAC), as well as the national anti-corruption legislature.

In a chronological standpoint, the United Nations Convention Against Corruption—adopted by the UN General Assembly in New York on October 31, 2003, and that Algeria ratified with reservations on April 19, 2004—explicitly underscores the necessity for establishing anti-corruption bodies. Specifically, Article 6 mandates that State Parties, according to its essential legal principles, confirm the establishment of one or more entities responsible for preventing corruption and implementing preventive measures.

Furthermore, the convention mandates that states must grant these entities satisfactory independence to enable them to function effectively, free from any undue influence or interference. Additionally, states are required to provide these bodies with adequate human and material resources to ensure their proper functioning.

The High Authority bases its legal framework on the African Union Convention on Preventing and Combating Corruption, which was adopted in Maputo on July 11, 2003 and subsequently ratified by Algeria on April 10, 2006.

Furthermore, I it was created in line with the Arab Convention Against Corruption, drafted in Cairo on December 21, 2010. It is also supported by several other international anti-corruption agreements, including the UN Convention on the Criminalization of Bribery, among others.

In this context, Algeria has sought to align its national legislation with these international conventions. As part of this effort, it enacted **Law No. 06/01ⁱⁱ with respect to the fight against corruption**, Article 17 provided for the establishment of the **National Body for the Prevention and Fight Against Corruption**. This institution was formed to carry out the national anti-corruption strategy, taking over the role previously held by the **National Observatory for the Monitoring and Prevention of Corruption**, which had failed to fulfill its mandate and was dissolved in 2000ⁱⁱⁱ.

Subsequently, a dedicated anti-corruption institution was incorporated into the Constitution through the 2020 Constitutional Amendment. Under Article 202 of this revision, a national body was formally established **for the prevention and fight against corruption** as an **independent administrative authority** endowed with **administrative and financial autonomy**. This body was explicitly named in the Constitution as the **High Authority for Transparency, Prevention and Fight against Corruption**, with its organization left to be determined by law. This regulation was later enacted as **Law No. 22/08 in 2022**.



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1.2. The High Authority for Transparency, Prevention and Fight against Corruption, Definition and Characteristics.

1.2.1. *Definition of the High Authority for Transparency, Prevention and Fight against Corruption*

The **Algerian legislator** defined it in **Article 204** of the **2020 Constitutional Amendment** as *an independent institution.*"

Similarly, **Article 2 of Law No. 22/08**^{iv} defines it as:

"*The High Authority is an autonomous organization with legal personality, along with financial and administrative independence.*"

Meanwhile, **Article 18 of Law No. 06/01** previously described it as:

" An independent administrative body with legal personality and financial autonomy, operating under the authority of the President of the Republic."

Hence, the **High Authority for Transparency, Prevention and Fight against Corruption** is categorized as one of Algeria's **independent administrative authorities**. It is a **constitutional oversight institution** tasked with preventing and combating corruption, fostering **civic values**, promoting a **culture of integrity**, and strengthening **transparency and good governance** within society^v.

It is worth noting that the **Algerian legislator** had previously assigned this task to the National Body for the Prevention and Fight Against Corruption, as specified in Law No. 06/01 on the Prevention and Fight Against Corruption. This indicates that the legislator entrusted the same roles to the High Authority under a different designation. – replacing the term "*body*" with "*authority*".

This distinction is significant: in Algerian legal terminology, the term "**body**" is used for **advisory-only authorities**, while "**authority**" refers to entities with **advisory and/or oversight powers**. Furthermore, by **enshrining the High Authority in the Constitution**, the legislator elevated its status to that of a **constitutional institution**, ensuring its **independence and shielding it from potential external pressures** in carrying out its functions^{vi}.

1.2.2. Characteristics of the High Authority for Transparency, Prevention and Fight against Corruption

The **High Authority for Transparency, Prevention and Fight against Corruption** possesses several distinctive features, counting:

- **Constitutional Status:** The High Authority is a **constitutional organization**, expressly acknowledged by the **2020 Constitutional Amendment** within the **oversight institutions**. It is granted an **entire chapter – Chapter IV –** in the amendment, reinforcing its **authority, independence, and oversight capabilities**^{vii}.
- **Regulatory Power:** The High Authority has been granted **regulatory authority**, enabling it to **make binding decisions**. Some of these powers are outlined in **Article 205** of the **2020 Constitutional Amendment**, and further expanded upon in **Law No. 22/08**.



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▪ **Supervisory Nature:**

In contrast to the National Authority for the Prevention and Fight against Corruption, that was an advisory body under the 2016 constitutional amendment—performing its advisory functions through recommendations, views, or reports—the High Authority for Transparency, Prevention, and Fight against Corruption is a supervisory authority. It was considered one of the regulatory institutions, ensuring that the constitutional legislator positioned it within the proper framework^{viii}.

▪ **Independence of the High Authority for Transparency, Prevention, and Fight against Corruption:**

The High Authority functions autonomously and is not subordinate to any entity, allowing it to perform its functions effectively and without external influence. This contrasts with the National Authority for the Prevention and Fight Against Corruption, which was placed under the authority of the President of the Republic, as outlined in Article 202 of the 2016 constitutional amendment and Article 18 of Law 06/01. This subordination raised doubts about its independence and integrity, ultimately leading to a absence of concrete anti-corruption actions^{ix}.

▪ **Legal Organization of the High Authority:**

The High Authority for Transparency, Prevention, and Fight against Corruption is created by law rather than by regulation, reinforcing its independence—particularly if a truly representative parliament emerges from the people's determination. This contrasts with the National Authority

for the Prevention and Fight Against Corruption, which was created by regulation, as it was placed under the direct authority of the President of the Republic.^x

2. Composition and Powers of the High Authority for Transparency, Prevention, and Fight against Corruption

Article 16 of Law 22/08 stipulates that "**The High Authority is composed of two bodies: the President of the High Authority and the Council of the High Authority.**"

2.1. Composition of the High Authority for Transparency, Prevention, and Fight against of Corruption

2.1.1. *President of the High Authority:*

Article 21 of Law 22/08 specifies that the President of the High Authority is chosen by the President of the Republic for a five-year term, renewable once. This resembles the nomination process for the President of the former National Authority for the Prevention and Fight against Corruption, who was nominated by means of presidential decree.

As the legal representative of the High Authority, the President holds numerous focal prerogatives and powers, including:

Powers of the President of the High Authority:

- Developing the National Strategy for Transparency, Prevention, and Fight against Corruption, ensuring its enactment and follow-up.
- Preparing the draft action plan of the High Authority.
- Drafting the internal regulations of the High Authority.
- Exercising hierarchical authority over all staff members.



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- Preparing the draft fundamental law governing the staff of the High Authority.
- Managing the activities of the High Authority's Council.
- Preparing the draft annual budget of the High Authority.
- Drafting the annual report of the High Authority and submitting it to the President of the Republic after approval by the Council.
- Upon receiving or discovering information that suggests criminal offenses, referring the matter to the competent Public Prosecutor or the Court of Auditors, depending on jurisdiction^{xi}.
- Strengthening international cooperation and the sharing of information with anti-corruption bodies internationally.
- Periodically updating the Council of all reports received and the actions engaged^{xii}.

2.1.2. The Council of the High Authority:

- The Council of the High Authority consists of 12 members, appointed by presidential decree for a non-renewable five-year term. The composition is as follows:
- Three (3) members chosen by the President of the Republic from among independent national figures.
- Three (3) judges, one from the Supreme Court, one from the Council of State, and one from the Court of Auditors, selected respectively by the High Council of the Judiciary and the Council of Judges of the Court of Auditors.

- Three (3) independent figures, selected on the basis of the expertise they have in financial and/or legal matters, their integrity, and their experience in corruption fighting. They are appointed by the Council of the Nation, the President of the People's National Assembly, and the Prime Minister or Head of Government, depending on the circumstances.
- Three (3) representatives from civil society, selected by the President of the National Civil Society Observatory from among individuals recognized for their commitment to transparency and the prevention and fight against corruption.^{xiii}

According to Article 23 of Law 22/08, and in comparison, to the former National Authority for the Prevention and Fight against Corruption, the Algerian legislator has provided the High Authority with a diverse composition that includes national figures, judges, independent personalities, and representatives from civil society. This mixed structure aims to combine the legal expertise of judges with the field experience of other selected members, ensuring a balanced and multidisciplinary approach to fighting corruption.

Additionally, the legislator deliberately ensured that the judges do not come from a single judicial body. Instead, the selection includes:

- A judge from the Supreme Court (rank not specified).
- A judge from the State Council.
- A judge from the Auditors' Court.

This multiplicity in judicial backgrounds allows for the exchange of expertise, with each judge contributing their specialized knowledge in their respective domain.



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Furthermore, the inclusion of civil society representatives in matters of transparency, corruption prevention, and anti-corruption efforts is expected to enhance the effectiveness of preventive measures^{xiv}.

The legislator also worked on granting independence from an organizational perspective by setting the membership term at five (5) years, non-renewable. The lack of a set term could expose members to dismissal at any time, which was the method initiated by the legislator in the preceding National Authority. The non-renewable condition specifies the legislator's careful approach in organizing this authority and ensuring that the same members do not remain for more than five years^{xv}.

Through Article 24 of Law 22/08, the legislator has ensured adequate protection for the members of the High Authority while performing their duties. This protection shields them from all forms of assault, defamation, threats, and other violations, reinforcing their ability to operate independently and with no external pressure.

To support the principle of prevention and Fight against Corruption, the Council of the High Authority has been entrusted with several essential responsibilities, including:

- Reviewing and approving the draft National Strategy for Transparency, Prevention, and Fight against Corruption after it is prepared by the President.
- Inspecting and approving the High Authority's action plan presented by the President.
- Issuing directives to relevant institutions and bodies in cases of integrity violations, a power that was beforehand absent in the former National Authority for the Prevention and Fight against Corruption.
- Reviewing corruption-related cases submitted by the President, analyzing them, and deciding on the necessary measures or actions to be taken.
- Providing opinions on issues referred to it by the government, parliament, or any other relevant institution.
- Assessing and giving recommendations on international cooperation projects related to corruption prevention with international bodies and organizations^{xvi}.

The Council of the High Authority has a **hybrid function**, combining:

1. **Advisory responsibilities** – issuing recommendations and opinions.
2. **Supervisory and regulatory powers** – ensuring oversight and taking corrective measures when integrity violations occur.

By granting the Council the power to issue orders to institutions in cases of wrongdoing, the High Authority gains real enforcement power, enhancing its efficiency in preventing and combatting corruption^{xvii}.



2.2. Powers of the High Authority for Transparency, Prevention, and Fight against Corruption

The High Authority for Transparency, Prevention, and the Fight Against Corruption was created under Article 27 of Law 22/08 to prevent and combat corruption while also promoting international cooperation and technical assistance in this domain. To effectively address this challenge, it is granted extensive powers proportional to the gravity of the issue it aims to tackle.

The Algerian legislator has defined the prerogatives of the High Authority in Article 205 of the 2020 Constitutional Amendment and Articles 4 to 15 of Law 22/08.

2.2.1. Powers of the High Authority According to the Constitution

- Article 205 of the 2020 Constitutional Amendment states the key functions of the High Authority for Transparency, Prevention, and Fight Against Corruption, including :
- Formulating a National Strategy for Transparency, Prevention, and the Fight Against Corruption, overseeing its implementation, and tracking its progress. Unlike the preceding National Authority for the Prevention and Fight Against Corruption, which was limited to proposing a comprehensive anti-corruption policy, the High Authority is also tasked with directly promoting transparency and preventing corruption.
- Gathering, processing, and communicating information related to its area of jurisdiction and providing it to relevant authorities.

- Informing the competent judicial institutions and the Court of Auditors of observed violations, and issuing orders to institutions and relevant bodies when required.
- Encouraging, applying, and spreading a culture of transparency, prevention, and fight against corruption.
- Providing opinions on legal texts related to its area of specialty.
- Participating in the training of personnel within organizations responsible for transparency, prevention, and fight against corruption.
- Contributing to the moralization of public life and strengthening the principles of transparency, good governance, prevention, and fight against corruption.
- Supporting civil society and other key stakeholders in the fight against corruption^{xviii}.

2.2.2. Powers of the High Authority According to Law No. 22/08

In addition to the powers drawn in the 2020 Constitutional Amendment, the High Authority for Transparency, Prevention, and Fight Against Corruption has various powers that enable it to fulfill its main task of attaining the highest levels of integrity and transparency in the administration of public affairs. The Algerian legislator set these powers under Chapter II of Law No. 22/08, specifically in Articles 4 to 15, which include the following:

A. Preventive and Awareness-Raising Powers

- Assisting public administrations as well as any natural or legal person in the prevention and fight



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against corruption by collecting, centralizing, analyzing, and disseminating any information or recommendations that could help halt and detect corruption.

- Carrying out periodic assessments of legal instruments related to transparency, corruption prevention, and anti-corruption measures, and assessing the efficacy of administrative procedures in achieving these goals as well. Additionally, the High Authority is empowered to propose appropriate mechanisms for improvement. Notably, the law does not specify which mechanisms should be adopted, leaving the High Authority with discretionary power to determine suitable actions on a case-by-case basis^{xix}.
- Creating an collaborative system with the aim of engaging civil society and organizing and encouraging activities related to the efforts aiming at gaining transparency and fighting corruption.
- Fostering transparency and integrity in charitable, religious, cultural, and sports activities, as well as in public and private societies, by formulating and enforcing appropriate anti-corruption regulation.
- Coordinating and overseeing anti-corruption efforts and preventive measures through regular reports, supported by statistics and analysis, submitted by relevant sectors and stakeholders^{xx}.
- Enhancing collaboration with regional and international organizations specialized in corruption prevention and the fight against corruption.

- Collaborating with regional and international institutions to exchange information for combating corruption.
- The High Authority also carries out awareness-raising and training activities targeting various sectors of society, including public and private institutions, organizations, and civil society. These activities aim to promote ethical public life, reinforce transparency and good governance, and strengthen anti-corruption efforts.
- After performing its key duties—such as evaluation, data collection, and proposing preventive mechanisms—the High Authority is responsible for preparing an yearly report specifying its actions, which is then submitted to the President of the Republic.
- Despite being recognized as a legally autonomous body with financial and administrative independence, the High Authority’s independence is not complete. It remains under the authority of the executive branch, mostly the President of the Republic, who finally decides the outcome of its reports and recommendations.

C. Oversight and Regulatory Powers

The High Authority for Transparency, Prevention, and Fight Against Corruption plays a decisive oversight role in successfully combating corruption. To ensure the effectiveness of its monitoring functions, the law requires all public institutions, bodies, and both public and private individuals or entities to cooperate with the High Authority and afford any demanded material and documents required



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for carrying out its duties. Failure to comply with these obligations may result in legal sanctions under obstruction of justice laws.

According to Law No. 22/08, the High Authority's oversight powers include the following:

- Receiving, processing, ...and overseeing asset declarations to promote transparency in political life and public affairs, safeguard public property, and uphold the integrity of public officials.
- Public officials are meant to make declarations about their assets before the High Authority involves elected members of municipal and provincial councils.
- Meanwhile, the President of the Republic, members of Parliament, the Prime Minister, Ministers, Constitutional Court, the President of the Court of Auditors, Central Bank Governor, magistrates, and governors must disclose their assets before the Supreme Court^{xxi}.
- The legislator requires that the disclosure of possessions be precise and meet all legal requirements, otherwise the public servant commits the crime of failing to declare assets or making a false declaration, when the High Authority determines that the disclosure is incomplete or incorrect^{xxii}.
- The High Authority for Transparency, Prevention, and the Fight Against Corruption carries out financial and administrative investigations into the advent of illicit enrichment by civic employers who cannot explain a substantial surge in their financial status.

The High Authority oversees the agreement of Government bodies, local communities, public organizations, economic institutions, associations, and other entities subject to transparency and anti-corruption regulations^{xxiii}.

- When the High Authority notices a violation of the quality and efficiency of the actions applied within public administrative institutions, associations, and bodies tasked with combatting corruption, it launches recommendations for measures to address these violations within the timeframe it stipulates^{xxiv}.

The High Authority for Transparency, Prevention, and the Fight Against Corruption exercises these powers either on its own initiative or upon receiving a report from a natural or legal person possessing information, data, or evidence related to acts of corruption.

The legislator, in Article 6 of Law 22/08, stipulates that the notification or report must be written, signed, and contain all elements related to corruption. It is also required to appropriately identify the notifier.

Shall the High Authority for Transparency, Prevention, and Fight against Corruption observe an abuse of integrity and transparency rules, it may notify the competent public prosecutor, after taking the actions outlined in Article 10 of Law 22/08.

The High Authority may also, if there is substantial evidence indicating unjustified enrichment of a public official, submit a report to the Public Prosecutor at the Sidi Mohamed Court. This report may request precautionary measures, including the renewal of banking operations or the seizure of assets for three months, based on a court order issued by the court's president^{xxv}.



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Thus, the High Authority for Transparency, Prevention, and the Fight against Corruption now has the authority to notify the public prosecutor of actions and facts with a criminal nature. In contrast, the former National Anti-Corruption Authority was limited to reporting observed violations to the Minister of Justice^{xxvi}.

3. Evaluating the Role of the High Authority in Combating Corruption

To assess the role of the High Authority for Transparency, Prevention, and Fight against Corruption, we must measure its independence, because independence is the foundation upon which institutions tasked with combating corruption rely to carry out their duties objectively and impartially, free from pressure. Consequently, we will divide this section into two parts: the first part will focus on studying the High Authority's independence from an organizational perspective, and the second will emphasize on studying its operational independence.

3.1. The Organizational Independence of the High Authority

The composition of the High Authority is one of the main characteristics that can disturb its work and independence^{xxvii}. An indicator of its independence will be that the constitutional legislator in the 2020 constitutional amendment specified the composition of the High Authority through a legislative text rather than by regulation, which is considered a guarantee for its members to perform their duties without being subject to any pressures or restrictions from any authority^{xxviii}.

The legislator also relied on a system of participation between all state powers in appointing the members of the High Authority, where the appointment is limited to the President of the Republic, the Supreme Judicial Council, the Council of Judges of the Court of Accounts, the President of the Senate, the President of the National People's Assembly, the Prime Minister / Head of Government, as applicable, and the President of the National Observatory for Civil Society.

Nevertheless, although the legislator has modified the appointment process within the National Authority, the President of the High Authority is still appointed solely by the President of the Republic, along with three other members. This has a negative impact on the exercise of its work with full independence. A better option would be to elect its president instead of appointing them, ensuring transparency and credibility for the High Authority when facing the public^{xxix}.

Conversely, the duration of the term and its non-cancellation constitute key criteria for evaluating the independence of the High Authority. Legally, both the President and the board members of the High Authority serve a five (5) year term. However, Article 24 of Law No. 22/08 states that "The members of the council are appointed by presidential decree for a non-renewable term of five (5) years, and their duties come to an end under the same conditions."

This implies the likelihood of ending the term and discharging members before the end of their term. It is noteworthy that the cases that end membership in the High Authority are specified in Article 26 of Law No. 22/08, which include the following: the end of the term, voluntary



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resignation, loss of the eligibility criteria that qualified the member for appointment, conviction for a felony or deliberate misdemeanor, death, exclusion due to unexcused absences from three consecutive council meetings, or involvement in serious actions or conduct that conflict with their obligations as a member of the High Authority. In the cases of exclusion or misconduct, the council must reach a majority decision to revoke the member's status.

What becomes evident is that the executive branch, embodied by the President of the Republic, exerts significant influence over the High Authority by appointing its president and three additional members. This undermines the body's independence. Furthermore, even the three judicial members, who are part of the judiciary, are appointed by the President of the Republic, who also serves as the head of the Supreme Judicial Council. This creates an indirect reliance on the President, further compromising the autonomy of the High Authority.

In addition to the senior executives who were performing their duties at the National Authority and whose transfer to the High Authority has been decided, it appears that they are appointed by a presidential decree. Article 15 of Presidential Decree No. 06/413^{xxx} stipulates that "The roles of Secretary-General, Head of Division, Director of Studies, Head of Studies, and Deputy Director are considered high-ranking state positions. Appointments to these roles are made through presidential decrees, based on recommendations submitted by the Head of the Authority."

This analysis is established by Article 19 of Law No. 22/08, which states: "The list of high state positions within the High Authority and their classification is determined in

accordance with the applicable laws and regulations." It is known that appointments to high state positions are made by presidential decree or executive decree. This marks the functional independence of the High Authority, as it does not control the process of hiring senior executives tasked with high-level duties.

It is important to highlight that senior executives within independent administrative authorities were initially appointed by the head of the respective authority. However, beginning in the year 2000, the legislature shifted this approach, granting the President of the Republic the sole authority to appoint senior officials within these independent bodies. This shift has resulted in a gradual erosion of the authority's independence and an increasing influence of the executive branch over its operations.^{xxxii}

3.2. The Functional Independence of the High Authority

From a functional perspective, the High Authority for Transparency, Prevention, and Fight against Corruption demonstrates a degree of independence. This is particularly evident in the process of drafting internal regulations, which are prepared by the President of the Authority and subsequently adopted by the Authority's Council. This stands in contrast to other independent administrative authorities, where the internal regulations are typically drafted by the Chairman of the Council, approved by the Council, and only take effect after being endorsed by the Prime Minister. This distinction highlights a greater level of autonomy for the High Authority in managing its internal governance.

The President of the High Authority is responsible for drafting the staff regulations governing the Authority's



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employees. This draft is submitted to the government and ultimately issued as a regulatory text. Furthermore, the President prepares the annual budget proposal, which is reviewed and approved by the Authority's Council. Once the budget is approved, the President of the Authority is granted the authority to oversee and approve expenditures, ensuring the financial operations align with the Authority's objectives. ^{xxxii}

Even though the High Authority enjoys a certain degree of independence in preparing its budget, the executive branch is the one that allocates the funds among various central structures. In other words, it is the source of its revenues. It is also restricted in its spending, as it is subject to oversight^{xxxiii} by an accountant appointed by the Minister of Finance, which limits its independence. Moreover, there are constraints that hinder the High Authority from exercising its powers to the fullest, particularly when examining the legal provisions related to its operational framework. These constraints are as follows:

- The High Authority is granted extensive powers, which may be challenging to fully implement. These powers include supervising the adherence of public administrations, local communities, public institutions, economic entities, associations, districts, municipalities, public administrative institutions, public industrial and commercial institutions, research and development centers, public private scientific and technological institutions, public cultural, professional, scientific, and technical institutions, as well as associations and other organizations to transparency systems and regulations aimed at preventing and combating corruption. Additionally, the High Authority is tasked with monitoring

and evaluating the existence, quality, effectiveness, and appropriateness of transparency and anti-corruption systems within ministries and provinces, ensuring their proper implementation. This casts doubt on the Authority's capacity to effectively fulfill all its responsibilities, particularly given the absence of regional representatives at the provincial level. Without such representatives, the Authority faces challenges in detecting and investigating corruption at both regional and national levels. This stands in contrast to the Independent Election Authority, which operates with a more decentralized structure, enabling it to carry out its functions more effectively across different regions.^{xxxiv}.

Regarding the declaration of assets, the High Authority's jurisdiction is restricted to receiving declarations from local elected officials and employees. In contrast, asset declarations for higher-ranking officials—such as the President, members of parliament, the President and members of the Constitutional Court, the Court of Auditors, the Governor of the State, ambassadors, consuls, governors, and judges—are submitted to the President of the Supreme Court. This division of responsibilities highlights a limitation in the High Authority's scope of authority, as it does not oversee asset declarations for the most senior public officials.

If there are indications of unjustified enrichment by a public official, the High Authority is limited to submitting a report of the matter to the Public Prosecutor at the Sidi Ahmed Court to request precautionary measures. In situations where there are potential criminal implications, the High Authority notifies the regionally competent public prosecutor and, if the acts fall within its jurisdiction, the Court of Auditors. This process underscores the Authority's



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role as an investigative and reporting body, while the actual enforcement and legal actions remain within the purview of judicial and auditing institutions.

From the above analysis, it is evident that the legislator did not grant the High Authority the authority to initiate criminal proceedings directly. Instead, its role is confined to investigating and reporting potential violations, with the power to take legal action resting solely within the discretionary authority of the judiciary. This limitation underscores the High Authority's reliance on judicial institutions to enforce accountability, rather than possessing independent prosecutorial powers.

Finally, the High Authority compiles an annual report detailing its activities, which is submitted to the President of the Republic. The contents of this report are then made available to the public. This process represents a form of post-action oversight, as the executive branch, embodied by the President of the Republic, reviews and monitors the actions and performance of the High Authority^{xxxv}. The legislator should have mandated that the High Authority publish its annual report in the official gazette to enable citizens to review the results achieved and its contribution to reducing corruption levels.

Conclusion:

After an analysis of the elements of the research paper and answering the problem, the following conclusions are formulated:

- The High Authority for Transparency, Prevention of Corruption, and its Fight is an independent administrative body with legal personality and financial and administrative autonomy. However, its independence in practice remains relative, as it is subjected to the executive authority.
- The organization of the High Authority is determined by law, whereas the National Authority for the Prevention of Corruption is established by presidential decree.
- Strengthening the effectiveness of the High Authority through diversifying its composition, including judges and civil society figures at its helm.
- Granting the High Authority, the prerogatives to formulate and approve its internal guidelines and to prepare the draft basic law for its employees ensures its independence, especially when facing the executive authority.
- Granting the High Authority various powers ensures its ability to fulfill its primary mission of preventing and combating corruption.
- From the above, the following recommendations are formulated:
- Reevaluate the independence of the High Authority, as it remains limited, particularly due to the requirement to submit its annual report to the President of the Republic instead of publishing it in



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the official gazette, which would enable citizens to assess its achievements.

- Expand the High Authority's jurisdiction in receiving and monitoring asset declarations to include all categories.
- Grant the High Authority the power to apply administrative penalties that are commensurate with its functions and duties, so that its oversight is not merely symbolic.
- Establish regional offices for the High Authority to facilitate the detection and investigation of corruption activities on a national level.

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