



## نظام التصريح بالتملكات في الشريعة الجزائري

### The assets declaration system in the Algerian law

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#### الملخص باللغة العربية

ألزم المشرع الجزائري الموظف العمومي بالتصريح بممتلكاته للوقاية من الفساد في القطاع العام، خاصة وأنّ صفة الموظف الركن المفترض في جرائم الفساد. وقد سبق للمشرع الجزائري وأن نظم هذا الواجب بموجب الأمر رقم ٩٧-٠٤ الملغى ليعيد تنظيمه في قانون الوقاية من الفساد ومكافحته إذ أخضع طائفة من الأشخاص لواجب الإفصاح عن ذممهم المالية تاركاً فئة أخرى من الموظفين للتنظيم، ممّا يستلزم علينا تحديد صفة الموظفين الملزمين بالتصريح بممتلكاتهم ومواعيد ذلك وإجراءاته.

وباعتبار واجب التصريح بالممتلكات دعماً لمسار عملية مكافحة الفساد وتطبيقاً لبنود الاتفاقية الأممية لمكافحة الفساد الهادفة إلى تعزيز الشفافية في الحياة السياسية والإدارية وحماية الممتلكات العامة تم إخضاع هذا الإجراء لمبادئ وقواعد قانونية صارمة ما يفرض علينا دراسة الطابع الإجرائي المنظم لواجب التصريح بالممتلكات ولمختلف الثغرات والنقائص التي حالت دون تحقيق فعالية هذا الإجراء في المنظومة القانونية الجزائرية.

#### الكلمات المفتاحية:

الفساد، الموظف العام، آليات الوقاية، التصريح بالممتلكات.

#### Abstract:

The Algerian Legislator obligated the public official to declare his property to prevent corruption in the public sector, especially since the official's status is the presumed element of corruption offences.

The Algerian Legislator has previously regulated this duty according to the abrogated Ordinance No. 97-04, and regulated the same again in the Law on Preventing and Combating Corruption, as it subjected a group of people to the duty to disclose their financial liabilities. However, there is also a category of officials not stipulated in



the same law, left for the regulation; whereupon we are required to define the status of the officials who are obligated to declare their assets. Considering the duty of assets declaration in support of the anti-corruption process and in implementation of the provisions of the United Nations Convention against Corruption which aims at achieving the most important goals of which are enhancing transparency in political and administrative life and protecting public property, this procedure was subjected to principles and strict legal rules, hence, the need to study the procedural nature which regulates the duty to declare assets.

**Key words:** corruption, public official, prevention mechanisms, assets declaration.

### Introduction

In order to ensure transparency in political life and public affairs, preserve the integrity of persons assigned to public service, and in order to control the movement of funds that the public official owns, and detect instances of extreme and rapid wealth that appears on some of them, the Legislator obligated every person bearing the description of a public official to disclose all his properties that he possesses outside the post he occupies.

This came in implementation of Algeria's international commitments, as it was considered to be among the leading countries to ratify the United Nations Convention Against Corruption<sup>1</sup>, and it translated its international commitment into promulgating the Law 01-06 on Preventing and Combating Corruption (LPLCC)<sup>2</sup>.

This law included many mechanisms. The declaration of assets is one of the most important mechanisms for preventing corruption in the public sector, especially as the status of public official is the presumed element in corruption offences.

Has the legislator succeeded, in regulating the provisions for declaring assets, in a way that ensures protection from corruption in public administration?

To answer this problematic requires an appreciation of the various legal issues related to the regulation of the provisions for declaring assets, whether it comes to its dates and deadlines (I) and the bodies charged with receiving the same (II).



## I. Ambiguity in the dates and deadlines for the assets declaration

Under the Law 01-06 on Preventing and Combating Corruption, the legislator obligates every person bearing the description of a public official to underwrite an assets declaration, making this procedure a preventive mechanism in the public sector.

Because of the importance of this procedure, the Legislator intervened and subjected the duty of declaring assets to a set of procedures contained in legal and regulatory texts related to preventing and combating corruption, the first of which is the necessity to underwrite the asset declaration within the legally specified deadlines (first), and deposit it with a competent authority (second) with the necessity to fulfill the publication and posting procedure (third).

### First: Dates for assets declaration

The Legislator subjected all public officials who are obligated to declare their assets to the same dates: at the beginning of his career (1), and for each significant increase (2), and at the end of his career (3).

#### 1. The initial assets declaration

Article four (04) states, in its second paragraph of the Law No. 06-01, that **"... a public official shall underwrite an asset declaration during the month that follows the date of his appointment to a position or the beginning of his electoral mandate."**<sup>3</sup>

By extrapolating the text of the article, it is understood that all public officials are obligated to disclose their assets during the month following the date of appointment to the position or at the beginning of the electoral mandate for elected officials, as is the case for the President of the Republic, members of Parliament and members of local elected people's assemblies<sup>4</sup>.

It is unreasonable to inflict the punishment for simply not declaring the assets during the month following the date of appointment to the post or the beginning of the electoral mandate, which is not mentioned by the Legislator in light of the provisions of the Law on Preventing and Combating Corruption, not even in light of the successive amendments that have specified this law<sup>5</sup> as Article 36 of Law 06-01 which states that **"... every public official is legally subject to the duty to declare his assets and did not do so intentionally, after two months of being reminded of the legal processes..."**<sup>6</sup>.



By reading the text of the article, it is implicitly understood that the public official who did not declare his assets on the specified date (one month) is given a time-limit of two months (02) to remedy the situation after being reminded of the legal processes.

It is clear that the legislator, through the text of the article, did not specify at which stage reminder is done, whether it is in the initial, renewal or final declaration, which may be understood from it as being in all stages<sup>7</sup>.

## 2. Renewal asset declaration

In implementation of the provisions of Article 04 of the Law on Preventing and Combating Corruption, we find that the public official is obligated to review the statement he made for the first time immediately after every significant increase in his financial liability in the same manner as the first declaration. The Syrian legislator used the same phrase "a significant increase" under Article 1 of The Illicit Gains Act which states: **"... This declaration shall be determined immediately upon every significant increase in the official's financial liability..."**<sup>8</sup>.

This is not new for the legislator, by referring to the text of Article 15 of Ordinance No. 97-04 which includes the assets declaration, every person subject to an assets declaration must declare every significant change in his assets as soon as it occurs.

Consequently, all officials must submit to these dates, including the judges, as it was stated in the Judiciary Organization Act No. 04-11 that **"the judge shall determine the obligation to declare the assets mentioned in Article 24 above every (5) five years, and upon every appointment to a specific position."**<sup>9</sup>

## 3. Final assets declaration

Article 04, in its last paragraph of Law No. 06-01, states that **"assets must be declared at the end of the electoral mandate or upon the termination of service."**

It is clear that the Legislator did not specify the period during which the final assets declaration would be completed. This is a renunciation of what was stipulated under the abrogated Ordinance No. 97-04, as it was required for persons to finally declare their assets during the month that follows or after the end of their membership or duties, except in death case with the extension of deadlines to another month in the case of force majeure<sup>10</sup>.



Consequently , the Algerian Legislator should have determined the necessary period for the final assets declaration, because when the said period is not determined, those concerned by this declaration evade it. This matter drains the assets declaration procedure from its substance as long as the purpose of it is originally and mainly to determine the unjustified difference in the financial assets that occurs between the periods of assuming the duties and of completing them, and this will not happen unless the date of the declaration is determined when the tasks are completed<sup>11</sup>.

And after the Algerian Legislator enumerated all the categories that must declare their assets, he indicated in the same article that this duty contains an inventory of real estate and movable properties that the subscriber or his minor children owns, even pro indiviso, in Algeria or abroad, that is, he discloses all his assets outside the post he occupies, and accordingly a report on his financial assets that includes all tangible and intangible assets and all pertaining rights<sup>12</sup>.

The article is criticized for the fact that the Legislator referred to the underwriting of the person's and his minor children's property without referring to the underwriting of the wife's property and this does not guarantee the protection of public money, so the person can underwrite his property in the name of his wife or adult children, then the assets declaration is useless<sup>13</sup>.

In this regard, the Presidential Instruction on activating the fight against corruption issued in 2009 urged the necessity of underwriting the wife's assets, as it stipulated the updating of the legal procedure for the assets declaration that applies to all state officials, and the assets declaration must include the wife's assets<sup>14</sup>.

The assets declaration is issued according to the form specified by the regulation, specifying the time at which the assets are declared in addition to a box related to the identity in which the declarer's name is mentioned, his parents' name, the date and place of birth, the position or electoral mandate, the place of residence<sup>15</sup>.

However, in practice, the content of the assets declaration has not been respected. Sometimes the date of appointment or assumption of the position is mentioned, and other times the declarer skips it. Furthermore, in most of the statements issued in implementation of the anti-corruption law, neither the declarer's parents were mentioned, nor the date and place



of birth. Even the assets that must be declared have also met some marginalization, as we find among the declarers, those who only stated that they hold a bank account abroad, but did not mention its value. What is the benefit of the declaration and what is the use of it in this way ?!

### **Third: Failure to standardize the rules for publishing and posting assets declarations**

Publication of the assets declaration is extremely important in fighting corruption, protecting public funds, and establishing rules of transparency.

By extrapolating the text of Article 06 of the Law on Preventing and Combating Corruption, it becomes evident that the publishing rules related to the assets declaration have not been standardized, as there is a category whose statements are published in the Official Gazette (1) and another category whose assets declaration is subject to posting on the bulletin board at the townhall or headquarters of the department (2).

#### **1. Publication in the Official Gazette**

The assets declaration related to the supreme sovereign bodies in the state, represented by the President of the Republic, members of Parliament, the Chairman of the Constitutional Council and its members, the Prime Minister and his members, the Chairman of the Accounting Board, the Governor of the Bank of Algeria, the ambassadors, consuls and governors, shall be made before the First President of the Supreme Court and publication shall be done in the Official Gazette of the Algerian Republic during the two months following the date of the election of those concerned or the assumption of their duties<sup>16</sup>.

#### **2. Posting on bulletin boards at the department or municipal level**

The assets declaration relating to the heads and members of the elected local people's assemblies, as well as the declarations of the officials not stipulated in Article 06 of Law 06-01 shall be done before the National Authority for Preventing and Combating Corruption, and shall be published by posting on the bulletin board at the town hall or department headquarters, as the case may be, within a month<sup>17</sup>.

It is evident that there is a difference in the rules for publishing an assets declaration, as some officials declarations are subject to publication in the official gazette, others are posted on the municipal or department bulletin board, and others are absolutely exempt from publishing, so it was more appropriate to standardize the publishing rules



to achieve transparency and involve the citizen in controlling the financial disclosure of State agents.

In addition to the aforementioned, the Legislator required that declarations be published in the official gazette at the beginning of the career, whether he is elected or an official, while it did not require publishing at the termination of service or the electoral mandate, or at every significant increase.

What we understand is that the declarations that are made at the time of the significant increase or at the termination of service or the mandate are not published, and this is inconsistent with the principles of good governance and in this is a renunciation of the provisions contained in (abrogated) Ordinance No. 97-04<sup>18</sup>, this category was required to publish its assets declaration during the two months following the termination of its membership or duties<sup>19</sup>.

On the other hand, Article 6 of the Law on Preventing and Combating of Corruption stipulates the publication of assets declarations as an obligation imposed by the law, and if this is not done within the legal deadlines, the declarations are considered as null and void.

However, the Legislator did not specify whether the publication is related to the initial or renewal declaration, or if it concerns the final declaration only. We believe that the Legislator's silence on this issue implies that the publication concerns all stages of the declaration, but it is preferable if the Legislator intervenes to take a clear and explicit position on this issue, since the publishing process can reveal the violations and enable the public opinion to know and expose the assets of the corrupt official<sup>20</sup>.

Accordingly, the legislator requires that the assets declaration be correct and that it meets all the conditions that must be met, and every breach of the duty to declare assets in whole or in part constitutes a crime of "not declaring assets" or "false assets declaration" according to Article 36 of the Law on Preventing and Combating Corruption, which entails the application of the sanctions stipulated in the same text<sup>21</sup>.

## **II. The discrepancy of the authority before which the assets declaration is filed.**

The authority before which the assets are declared differs according to the category of officials concerned with the duty of assets declaration, so by extrapolating the text of Article 06 of Law No. 06-01,



the assets declaration is made before the National Authority for Preventing and Combating Corruption (first) or the First President of the Supreme Court (second).

**First: Filing the assets declaration before the National Agency to Prevent and Combat Corruption**

The National Agency to Prevent and Combat Corruption was established pursuant to Law No. 01-06, and this was inevitable after Algeria's ratification of the United Nations Convention against Corruption, which included recommendations to the countries ratifying it in accordance with Article VI of which it emphasized the need to establish an internal anti-corruption body or bodies which is given the necessary independence to perform its duties, provided that each state party informs the Secretary-General of the United Nations of the name and address of the national authority or body established in this field for the purpose of assisting other state parties in combating corruption<sup>22</sup>.

In order to implement Algeria's international commitments and confront the manifestations of corruption, the Algerian Legislator established the National Agency to Prevent and Combat Corruption within the framework of Law No. 06-01, Article 17 of which stipulates: **"A national body in charge of preventing and combating corruption shall be established in order to implement the national strategy in the field of fighting corruption"**. Article 18 adds: **"The body is an independent administrative authority having a legal entity and financial independence, to be placed with the President of the Republic"**, affirming the same principle of the 2016 constitutional amendment<sup>23</sup>.

The Constitution of the People's Democratic Republic of Algeria promulgated by Presidential Decree No. 96-438 issued on September 7, 1996 O.G.R.A, No. 76, issued on December 8, 1996, amended and completed by Law No. 02-03 issued on April 10, 2002, O.G.R.A. No. 25, issued on April 14, 2002, amended and completed by Law No. 08-19, issued on November 15, 2008, O.G.R.A. No. 63, issued on November 16, 2008, amended and completed by Law No. 16-01, dated March 6, 2016, including constitutional amendment, O.G.R.A, No. 14, issued on March 7, 2016.

The National Agency is an independent administrative authority that has control powers in the field of preventing and combating





corruption, and therefore it cannot be classified within the classic administrative bodies, but rather it is classified within the new categories established by the Legislature under the name of Independent Administrative Bodies that have been entrusted with control in the economic and financial fields.

In order to enable the body to implement the national strategy for preventing and combating corruption, many powers were assigned to it and which the Law No. 01-06 above and the Presidential Decree No. 413-06 ensured to define. The latter defined in accordance with Article 13, a set of tasks that the body shall carry out, among them: receive and inspect assets declarations"<sup>24</sup>.

The assets declaration before this authority includes the chief executives and members of elected local people's assemblies, and this:

- **At the level of the Administrative District or Province:** The appointed the chief executive of Department or the head of Province collects the assets declarations of the chief executives and members of the people's Municipal Assemblies, and the deposit of these declarations shall be attached to a nominal list signed by each declarer who shall put his fingerprint on it in return for receiving a deposit receipt individually. The signature list and the deposit receipt shall be according to the form attached to this circular, and upon completion of the process, he deposits it with the Secretary General of the Department.
- **At the level of the Department:** The Department secretary-general collects the assets declarations of the chief executives and members of the People's Departmental Assembly. The deposit of the declarations is also attached to a nominal list signed by each declarer who shall put his fingerprint on it in return for receiving a deposit receipt individually, and the general secretary of department by virtue of his position, shall be assigned with the whole of the statements (Municipal and Departmental People's Assemblies) and the attached signature lists.

The ministerial circular on May 15, 2013 specified the modalities for sending the assets declarations to the National Agency to Prevent and Combat Corruption, as the submitted declarations are deposited in a sealed envelope with the General Directorate of Public Freedoms and Legal Affairs of the Ministry of Interior and Local Authorities tasked



with sending them to the National Agency to Prevent and Combat Corruption<sup>25</sup>.

Accordingly, the Legislator empowers the body to receive the assets declaration, as it created a special division competent to receive the assets declaration. This process is a requirement for ensuring transparency in political life and protecting public property<sup>26</sup>.

Declarations before this body also extends to the declarations of some officials not stipulated in Article 06 of the Law on Preventing and Combating Corruption, as it determined the method of assets declaration of this category in accordance with Article 02 of Presidential Decree No. 415-06, in which it stipulated: **“Public officials not stipulated in Article 6 of Law No. 06-01 must underwrite the assets declaration within the deadlines specified in Article 04 of the same law:**

- Before the National Authority, for public official who occupy senior government positions or high-level state positions.
- Before the direct hierarchical authority immediately above, with regard to public officials whose list is determined by a decision of the authority in charge of the civil service<sup>27</sup>.

With reference to the provisions of Presidential Decree No. 225-225 defining the list of high-level state positions under the title “Office of the President,” we find that these are defined as follows:

- 1- Consultant
- 2- Director of Studies
- 3- Director
- 4- Person in charge of studies and summarization
- 5- Deputy Director<sup>28</sup>.

Whereas Presidential Decree No. 90-227 specified the list of high-level state positions under the title of administration, institutions and public bodies, for all of them, the assets declaration is made before the Guarantor Authority<sup>29</sup>.

Whereas, the assets declaration shall be made before the hierarchical authority and according to the same forms, and within the same time limits, for public officials whose list is determined by a decision of the authority in charge of the aforementioned civil service<sup>30</sup>.

In implementation of this, a decision was issued by the Director General of the Public Service specifying a list of public servants who are obligated to declare assets in all of origin administrations<sup>31</sup>, and



accordingly, the two previously mentioned authorities were assigned according to Article 2, the last paragraph of Presidential Decree No. 415-06, to deposit the declarations received by the National Agency to Prevent and Combat Corruption. And in this regard, the National Agency developed the regulatory notice No. 15-04 related to the method by which the authority shall deliver the declarations received by the two authorities<sup>32</sup>.

After completing the process of preparing the file containing the assets declarations, the depositing authority shall inform the National Agency by e-mail or by fax, provided that these assets declarations are accompanied by transmission schedules according to the forms attached to the file and in the various organizational structures and by a card in the form of "Excel", containing a nominal list to enumerate the public officials who occupy senior government positions, accompanied by information related to the positions they occupy.

However, according to Presidential Decree No. 415-06, the deadlines for submitting these declarations were not specified, and the said Decree was content with the phrase "reasonable deadlines". Therefore, what is the period that can be described as reasonable? The failure of the Legislator to specify the exact period may lead the two authorities to delay the deposit of declarations, which may cause the National Agency to Prevent and Combat Corruption to study and process information related to the assets declaration.

Accordingly, the legislator should have intervened to determine the period in which the declarations must be deposited, rather than being content with describing them as "reasonable deadlines" that raise a lot of ambiguity<sup>33</sup>.

It is noteworthy that any deliberate or unjustified refusal to provide the authority with the required information and documents is a crime of impeding the proper course of justice. This fact is confirmed by Article 21 of the Law on Preventing and Combating Corruption in its second paragraph, which states: **"... every intentional and unjustified refusal to provide the authority with information and / or the required documents constitutes a crime of impeding the proper functioning of justice within the meaning of this law"**.

This crime requires that the request be submitted by the authority, and it is met with a negative response, so any person who deliberately



refuses or whose refusal is not justified to provide the authority with information and / or the necessary documents, he shall be liable to a penalty of imprisonment from (6) months to 5 years, and a fine from 50,000 to 500,000 dinars<sup>34</sup>.

The question that may remain in this field is: Can professional secrecy be used to justify providing the authority with the required information and documents?!<sup>35</sup>.

The answer is affirmative for two reasons: the first relates to Article 301 of the Penal Code, which obliges persons entrusted with a profession or permanent or temporary position to maintain professional confidentiality, unless the law permits that. The second reason is the fact that the Law on Preventing and Combating Corruption does not include a provision not to consider professional confidentiality in the face of the National Agency to Combat Corruption<sup>36</sup>.

It is noticed that the position of the Legislator in this case seems strange, so what is granted by one hand is taken away by the other hand, as the right to access and request documents and information is one of the main rights the Agency has, but in return there is the right to refuse to respond and to object, and this inevitably affects the efforts of the legislator and the Agency to detect corruption offences.

The refusal is justified in the event that the information subject of the request is not related to corruption offences, and the authority is not useful in detecting it, and describing the information between the request and the rejection remains at the discretion of the criminal court judge.

Article 22 of Law No. 06-01 stipulates that when the National Agency to Prevent and Control Corruption reaches to facts with a criminal description, it refers the file to the Minister of Justice President of the Supreme Court, who notifies the competent Public Prosecutor to initiate a public case when necessary.

It is understood from the text of the above article that the Public Prosecutor has the discretionary authority to initiate a public lawsuit or not, as it was stated in the text of the article **"... the competent Public Prosecutor shall be notified to initiate the public lawsuit when necessary."**

It is clear that the National Agency to Prevent and Combat Corruption cannot initiate or even act in a public case. In addition to the fact that many parties, such as the Minister of Justice and the Public



Prosecutor, intervene to initiate the lawsuit causes reluctance of one of the parties in doing so; as a result, the public official involved escapes judicial proceedings. Then, what is the use of the existence of the assets declaration, and what is the purpose of making progress in the procedures in order to end with the refusal or reluctance of the concerned authorities to initiate a public case?

### **Second: Depositing the assets declaration before the First President of the Supreme Court**

Article 06 of the Law on Preventing and Combating Corruption stipulates that the assets declaration of the President of the Republic, members of Parliament, the Chairman and members of the Constitutional Council, the Prime Minister, members of the Council of Ministers, the Accounting Board Chairman, ambassadors, consuls, and Chief Executives of Department shall be made before the First President of the Supreme Court<sup>37</sup>.

This declaration shall be deposited within the two months following the date of the election of the concerned persons or their assumption of their duties, and perhaps the exclusion of this category from depositing their declarations before the National Agency to Prevent and Combat Corruption is due to the sensitivity of these positions.

However, the law did not specify whether the latter - the National Agency to Prevent and Combat Corruption - are authorized to investigate the declarations of these officials, nor did it specify whether the First President of the Supreme Court was also authorized to carry out such investigations or if his role is limited to receiving declarations only<sup>38</sup>.

If the Legislator in the Law on Preventing and Combating Corruption obligated this category of officials to declare their assets before the First President of the Supreme Court, then it neglected to specify the authority charged with receiving the assets declaration of the First President of the Supreme Court<sup>39</sup>.

Consequently, it would have been advisable if the legislator had explicitly specified this authority as it did with the rest of the officials, as is the case in Ordinance No. 97-04 relating to assets declaration(abrogated), which subjected him (the First President of the Supreme Court) to the duty to declare assets provided that it is filed before a committee called the "Assets Declaration Committee"<sup>40</sup>.



On the other hand, it is noticed that there is a kind of ambiguity when collating the text of Article 04 of Law No. 06-01 which states that the declaration is obligatory upon the assumption of the duties or the beginning of the electoral mandate and at its end with the text of Article 06 which refers - with regard to the high positions - to the obligation of making the declaration at the entry on duty or beginning of the electoral mandate, and a period of two months of taking over the tasks is determined without the slightest indication that the declaration is required upon termination of duties.

What may be understood from it, is the exemption of this category from declaring its assets upon termination of duties or expiration of the mandate, which drains the assets declaration procedure from its substance as long as the purpose of it is originally and basically to determine the unjustified difference in the financial liability that may arise between the period of assuming the functions and the one of the expiration of the functions, and this will not be achieved, unless the declaration is made when the duties are terminated<sup>41</sup>.

In addition to these gaps and shortcomings, we find that although it was amended and completed, the Law on Preventing and Combating Corruption did not include all the persons stipulated in the text of Article 2, although the duty to declare assets is a preventive measure that came to reduce and limit corruption offences.

The Legislator had to keep pace with the development in the legislative field by subjecting all persons stipulated in this article to the duty of declaring assets so that this procedure would achieve the purpose of its approval.

In addition, the statements filed before the First President of the Supreme Court remain mere information, as it is not possible to follow the development of the financial liability of the officials of the category mentioned in the text of Article 06 of the Anti-Corruption Law, even if an unnatural increase in the financial liability of one of the officials is discovered, because there is no legal text that allows the public lawsuit<sup>42</sup>.

### **Conclusion**

The protection of public funds requires the intervention of the legislator to put in place many and varied mechanisms, most of which are related to the preventive aspect, which includes measures and mechanisms that prevent corruption and reduce its spread rates.



The assets declaration is considered one of the most important mechanisms for preventing corruption because it is directly related to the supposed element "the public official" that is the instrument perpetrating most corruption offences. And despite the legislator's keenness to devote the strict procedural character to its rules and provisions, the texts regulating it may have important gaps and shortcomings which prevented the effectiveness of the assets declaration procedure and thus the legislator has not been very successful in organizing this procedure and making it one of the most important mechanisms for preventing corruption, as its effectiveness remains theoretical given the application shortcomings and gaps, which prompts us to present proposals that contain, in their essence, recommendations that may enrich the legal system in this area and which can be summarized in:

- Developing the religious faith in the public official, considering him the instrument perpetrating most corruption offences
- Adopting a strict legal system regarding methods of appointing public officials
- The necessity to detect most of the deficiencies recorded in the assets declaration procedure, which are:
  - Expanding the categories covered by the duty to declare assets, as defined in Article 2 of the Anti-Corruption Law.
  - The declarer's underwriting of his adult children's and wife's property, as is the case in comparative legislation, with the necessity to specify the deadlines for which the Guarantor Authority and the Hierarchical Authority shall deposit the declaration with the National Agency to Prevent and Combat Corruption.
  - Intervention by the legislator to determine the amount of the significant increase in the public official's financial liability that makes him obligated to declare it with the setting of the date for the final assets declaration.
  - Eliminate ambiguity regarding the declaration of the First President of the Supreme Court by specifying the authority competent to receive the assets declaration related to it.
  - Follow the incentive policy in reporting and detecting false declarations.



<sup>1</sup> Presidential Decree No 04.128, issued on April 19, 2004, includes the ratification by reservation of the United Nations Convention against Corruption adopted by the United Nations General Assembly adopted in New York on October 31, 2003, OG No. 26, dated April 25, 2004.

<sup>2</sup> Law No. 06-01 of February 20, 2006, relating to preventing and combating corruption, OG No. 14, dated March 08, 2006, amended and completed by Ordinance No. 10-05 issued on August 26, 2010, OG No. 50, Dated September 1, 2010, amended and completed by Law No. 11-15, issued on August 02, 2011, OG No. 44, dated August 10, 2011.

<sup>3</sup> Paragraph 2 of Article 4 of Law No. 06-01, aforementioned.

<sup>4</sup> Fatma ATHMANI, Assets declaration as a mechanism to combat administrative corruption in the public offices of the state, thesis for obtaining a master's degree in law, option: Transformations of the State, Faculty of Law and Political Science, Mouloud MAMMERI University, Tizi Ouzou, 2011, p. 78.

<sup>5</sup> Nadia TIAB, Mechanisms to Combat Corruption in the Field of Public Transactions, Thesis for a PhD in Science, Speciality: Law, Faculty of Law and Political Science, Mouloud MAMMERI University, Tizi Ouzou, 2013, p. 31.

<sup>6</sup> Article 36 of Law No. 06-01 aforementioned.

<sup>7</sup> Nadia TIAB, previous reference, p. 31.

<sup>8</sup> Quoted from Noura HAROUN, "Towards a Review of Legal Texts Regulating the Procedure for a Assets Declaration, Reality and Prospects," Academic Journal of Legal Research, Majid 12, No. 2, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2017, p. 366.

<sup>9</sup> Article 25 of Organic Law No. 04-11, issued on September 6, 2004, on the Organic Law of the Judiciary, O.G.A.R, No. 57, issued on September 8, 2004.

<sup>10</sup> Noura HAROUN, previous reference, p. 367.

<sup>11</sup> Fatma Athmani, previous reference, pg. 82.

<sup>12</sup> Hamza KHODRI, "Preventing and Combating Corruption in the Context of Public Transactions," Works of the National Forum on Combating Corruption and Money Laundering, Faculty of Law and Political Science, Mouloud MAMMERI University, Tizi Ouzou, 10,11 March 2009, p. 51

<sup>13</sup> Fatma ATHMANI, previous reference, P. 83.

<sup>14</sup> Presidential Instruction No. 03 issued on December 13, 2009, by the President of the Republic, ordering the government to strengthen anti-corruption mechanisms.

<sup>15</sup> Presidential Decree No. 414-06, issued on November 22, 2006, defining the assets declaration form, O.G.A.R, No. 74, issued on November 22, 2006.

<sup>16</sup> Brahim TOUMACHE, Zineb AMARA, "Legal Mechanisms for Fighting the Corruption Phenomenon in Algeria between the Reality of the Text and the Effectiveness of Implementation", Journal of Political Sciences and Law, Volume 3, No 13, Arab Democratic Center, Berlin, 2019, p. 111.

<sup>17</sup> Fatiha SAADI, Legal Center for the National Agency to Prevent and Combat of Corruption, Thesis for obtaining a Master's degree in Law, Option: Labour Public Law, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2011, p. 148.





<sup>18</sup> Law No. 97-04, issued on January 11, 1997, relating to the assets declaration, O.G.R.A, No. 3, issued on January 12, 1997 (abrogated).

<sup>19</sup> Fatima ATHMANI, previous reference, pp. 92-93.

<sup>20</sup> Noura HAROUN, previous reference, p. 372.

<sup>21</sup> Mohamed Nasere Eddine, "The declaration as a preventive measure against corruption, the Algerian experience", Magazine: Droit et Liberté, No. 2, national body for the prevention and fight against corruption, faculty of law and political science - University of Biskra, 2016, P 02.

<sup>22</sup> Malika BEKKOUCHE, The Crime of Embezzlement Under the Law on Prevention and Combating Corruption, Thesis for obtaining a Master's Degree in Law, Faculty of Law and Political Science, University of Oran, 2013, p. 160.

<sup>23</sup> Article 202 of the 2016 Constitutional Amendment states, "A national body for the prevention and control of corruption shall be established. It is an independent administrative authority placed with the President of the Republic, and the authority shall enjoy administrative and financial independence."

<sup>24</sup> Presidential Decree No. 413-06 issued on November 22, 2006, defining the composition of the National Agency to Prevent and Combat of Corruption, its Organization and the Modes of Its Operation, O.G.R.A. No 74, issued on November 22, 2006.

<sup>25</sup> The circular of the Minister of the Interior and Local Authorities, issued on May 15, 2013, outlining the methods and procedures for declaring the assets of the chief executives and members of the local people's assemblies. [www.oplc.org.dz](http://www.oplc.org.dz) See also Appendix No. 1.

<sup>26</sup> Arezki TEBRI, National Agency to Prevent and Combat Corruption and Government Policy, Thesis for obtaining a master's degree in law, specializing in public bodies and government, Faculty of Law and Political Science, Abderrahmane Mira University, Bejaia, 2014, p.96.

<sup>27</sup> Presidential Decree No. 415-06 issued on November 22, 2006, specifying the modalities for declaring assets for public officials not stipulated in Article 06 of the Law on Preventing and Combating Corruption O.G.R.A. No. 74, issued on November 22, 2006.

<sup>28</sup> Presidential Decree No. 225-225 issued on July 25, 1990, defining the list of the high-level state positions under the title of Office of the President O.G.R.A, No. 31, issued on June 26, 1990.

<sup>29</sup> Presidential Decree No. 90-227, issued on July 25, 1990, defining the list of high-level state positions under the title: Administration, Institutions and Public Bodies, O.G. No. 31, issued on July 28, 1990.

<sup>30</sup> Mohamed HAMLI, "The Anti-Corruption Agency and the Assets Declaration as Two Mechanisms to Combat Corruption in Public Service in the State," Works of the National Forum on Anti-Corruption and Money Laundering, Faculty of Law and Political Science, Mouloud MAMMERI University, Tizi Ouzou, on 10th and 11th day, p. 73.

<sup>31</sup> Appendix of the decree dated April 2, 2007, specifies the list of public officials who are obligated to declare assets O.G.R.A, No. 25, issued on April 18, 2007.



<sup>32</sup> Refer to the provisions of the regulatory notice No. 15-04, relating to the modalities for the delivery of the assets declarations underwritten by public officials to the National Agency to Prevent and Combat Corruption referred to in Presidential Decree No. 415-06 issued on November 22, 2006 (Appendix No. 2).

<sup>33</sup> Noura HAROUN, previous reference, p. 370.

<sup>34</sup> See the text of Article 4 of Law 06-01, aforementioned.

<sup>35</sup> Houria BEN AHMED, Administrative and Judicial Control of Public Transactions, Thesis for a PhD in Sciences, Speciality: Law, Faculty of Law and Political Science, Aboubakr BELKAID University, Tlemcen, 2018, p. 304.

<sup>36</sup> Nadia TIAB, previous reference, p. 305.

<sup>37</sup> Article 6 of Law No. 06-01, aforementioned.

<sup>38</sup> Nadia TIAB, previous reference, p. 36.

<sup>39</sup> The Legislator could have avoided the confusion regarding the first president's declaration to the Supreme Court to oblige the latter to declare his assets before the National Agency to Prevent and Combat Corruption, as it is unreasonable for him to make the declaration before himself.

<sup>40</sup> Refer to the text of Article 8 of Ordinance No. 97-04, the aforementioned text of which states: "The assets declaration shall be filed with a specialized committee established for this purpose called the "Assets Declaration Committee ...".

<sup>41</sup> Mohamed HAML, previous reference, page 72.

<sup>42</sup> In addition to that, the public lawsuit has a statute of limitations after 3 years, while the immunity of the President or members of Parliament lasts for a period of 5 years, and this may lead to impunity from criminal prosecution due to the breach of the duty to declare assets.