

Judicial Policing Authorities Investigate Criminal Profits from Corruption in Algerian Law

سلطات الضبطية القضائية في التحري عن عائدات الفساد الإجرامية في
القانون الجزائري

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ABSTRACT:

ملخص باللغة العربية:

This research revolves around the powers of judicial control established by the Algerian legislator within the penal Procedure Code and the Law on Prevention and Combating of Corruption, in order to investigate the proceeds of corruption crimes, whether these powers are general or exceptional ones introduced by the legislator according to the seriousness of corruption crimes.

يتمحور هذا البحث حول سلطات الضبطية القضائية التي أقرها المشرع الجزائري ضمن قانون الإجراءات الجزائية وقانون الوقاية من الفساد ومكافحته، من أجل التحري عن عائدات جرائم الفساد، سواء كانت هذه السلطات عامة أو استثنائية استحدثها المشرع حسب خطورة جرائم الفساد.

Keywords: Corruption, Investigative Judicial Discipline, Criminal Proceeds .

كلمات مفتاحية: الفساد، الضبطية القضائية، التحري، عائدات إجرامية.

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Introduction:

Corruption offenses are considered to be of serious concern to the contemporary international community, particularly due to their association with other cross-border criminal activities. This is partly due to technological development in the field of communications and digitalization of information, which facilitates corruption criminals' methods of concealment, hiding the illicit income they have obtained, their escape and of their whitening in renewed and varied forms. This makes the issue of their traceability and recovery extremely complex, whether at national or international level.

Aware of the negative effects of corruption offenses and money laundering operations resulting from them, the Algerian State hastened to ratify the United Nations Convention against Corruption by virtue of Presidential Decree No. 04-128 dated from 04/19/2004 ¹. The Algerian legislator is committed to respecting its provisions by adopting a specific law on corruption offenses, Law No. 06-01 of 02/20/2006 as amended and supplemented ². This law provides for the creation of a specialized body responsible for investigating corruption offenses, represented by the Central Office for the Suppression of Corruption, in addition to the powers of the judicial police falling under other bodies. It also provides for specific methods in the field of investigation, facing the limitations of traditional

1 The United Nations Convention against Corruption, adopted by the General Assembly on October 31, 2003 pursuant to resolution 58/04 and opened for ratification at the High-Level Conference held in Mérida, Mexico, from 9 to 11 December 2003, entered into force on December 14, 2003. Algeria ratified it by Presidential Decree N 0 04-128, dated April 19, 2004, JORADP, N 0 26, dated April 29, 2004.

2 Law N 0 06-01, dated February 20, 2006, relating to the prevention and fight against corruption, JORADP, N 0 14, published on 03/08/2006, amended and supplemented by Law 11-15, dated August 2, 2011, JORADP, N 0 44, dated August 10, 2011.

investigation methods to detect complex corruption offenses, trace their income and arrest their perpetrators.

The importance of this research lies in the interest that the Algerian legislator, like other countries, places in the establishment of mechanisms and methods to detect and trace the income from corruption offenses in order to seize them early. before their flight outside national borders or their laundering and conversion by various modern technological methods. On the other hand, the importance of this research also lies in the small number of studies that have addressed the subject exhaustively and covering all its legal aspects.

The issue raised regarding the subject of the study focuses on the powers and skills granted by the Algerian legislator to the judicial police to investigate the proceeds of corruption offenses. What criminal procedures are followed by the judicial police to trace this income? What are the mechanisms and methods for investigating the proceeds of corruption in Algerian legislation?

To cover the different aspects of the subject of the study and respond to the problem posed, we chose an analytical approach by gathering and analyzing the legal texts of Algerian legislation related to the subject of the study.

To address the problem of the study, we divided the subject into two parts. In the first part, we discuss the general powers of the judicial police to investigate the proceeds of corruption. We have divided this part into two sections, the first dealing with the judicial police responsible for the investigation of corruption offenses, and the second section dealing with the ordinary powers to investigate corruption offenses. In the second part, we discuss exceptional powers to investigate corruption offenses. We have also divided this part into two sections, the first dealing with special methods of investigating corruption offenses, and the second section addressing the ban on leaving the national territory and the execution of judicial warrants.

THE FIRST PART : PUBLIC POWERS OF THE JUDICIAL POLICE.

In this part, we will discuss in the first section the judicial police as an operational entity responsible for investigating and searching for the proceeds of corruption offenses. In the second section, we will examine the general skills of the judicial police in the search for these products.

CHAPTER 1 : The judicial police.

In this section we will discuss the bodies responsible for investigating and detecting the proceeds of criminal corruption, in particular the judicial police and the Central Anti-Corruption Office. In the first subsection, I will deal with the competence of these organizations, both locally and qualitatively.

Subchapter 1: The ordinary judicial police.

Algerian legislation stipulates the powers of the judicial police through article 12 of the Code of Criminal Procedure, entitled "The judicial police". This service is responsible for carrying out inquiries and investigations into various offenses, including corruption offenses, in accordance with the categories having the status of judicial police, as defined in article 14 of the Code of Criminal Procedure. These categories are:

First of all: Judicial police officers

They are dealt with in article 15 of the Algerian Code of Criminal Procedure, modified and supplemented, in particular by law n°19-10 of 11/12/2019 ¹, which after our extrapolation

1 See article 15 of the Code of Criminal Procedure.

thereof, judicial police officers can be classified into three categories ¹, which we summarize as follows:

01- Judicial police officers have the power of the law: The presidents of municipal popular councils, officers of the national gendarmerie, employees under the special services of inspectors and guards of the national security police benefit from the power of the law as judicial police officers, unconditionally.

02- Judicial police officer by decision and after the approval of a special committee: Non-commissioned officers who have spent at least three (03) years in the national gendarmerie and who have been appointed by joint decision of the Minister of Justice and the Minister of Defence, as well as employees reporting to the special services of inspectors and guards of the national security police who have also spent at least three (03) years in this function and who were appointed by joint decision of the Minister of Justice, the Minister of the Interior and Local Authorities, after the approval of a special committee.

03- Employees of the military security services: Algerian legislation, through article 15 of the Code of Criminal Procedure, requires that this category of the People's National Army enjoy the status of judicial police, provided that its members are officers or non-commissioned officers responsible for military security, and that they are specifically appointed by joint decision of the Minister of Justice and the Minister of National Defence, without taking into account seniority or approval of a special committee.

Secondly: judicial police officers

Article 19 of the Code of Criminal Procedure deals with judicial police officers, who are limited to police officials, non-commissioned officers of the national gendarmerie and

1 Abderrahmane KHALFI, *Criminal procedures in Algerian and comparative law*, 6th edition, Dar Belkis for the edition - Algeria, 2022, p. 61.

employees of the military security services who do not benefit from the status of police officer.

Their main missions, according to article 20 of the same law, consist of assisting judicial police officers in their investigations into offenses provided for by the Penal Code and in identifying their perpetrators in the context of obedience to the orders of their superiors.

Third: Employees and agents legally entrusted with certain tasks of the judicial police

The Algerian legislator has granted the status of judicial police to certain civil servants and agents through the Code of Criminal Procedure, such as heads of department, engineers, technicians specialized in forestry, protection and land development. , to carry out investigations in their areas of competence in accordance with Article 21 of the Code of Criminal Procedure, or by special provisions such as labor inspectors ¹and customs officers ², fraud repression officers under the responsible ministry of consumer protection ³.

However, it should be noted in this regard that these agents are not authorized by the public prosecutor's office to enter homes or buildings on the basis of judicial authorization, except in the presence of a judicial police officer who is required to support them in compliance with legal provisions ⁴.

1 See article 14 of law N 0 90-03, dated February 6, 1990, relating to the responsibilities of the Labour Inspectorate, JORADP, N 0 06, 1990.

2 See article 42 of law N 0 79-07, dated July 21, 1979, amended and supplemented, relating to customs legislation, JORADP, N 0 30, 1979, amended and supplemented by law N 0 17- 04, dated February 16, 2017, JORADP, N 0 11, 2017.

3 See article 25 of law 09-03, dated February 5, 2009, relating to consumer protection and the repression of fraud, JORADP, N 0 15, year 2009.

4 Abderrahmane Khalfi, Op. Cit , p. 62.

It should also be mentioned in this context that the walis (prefects) benefit from the status of judicial police, in accordance with article 28 of the Code of Criminal Procedure, in the event of the commission of a crime or an offense against the security of the State in an emergency, unless the judicial authorities become aware of these offenses.

This is also the case for prosecutors and investigating judges, because articles 12, 36, 56 and 60 of the amended and supplemented Code of Criminal Procedure stipulate that they benefit from the status of judicial police, which allows them to exercise all the authorities and skills which fall under this status.

Sub-chapter 2: The Central Office for the Repression of Corruption (OCRC)

The amended and supplemented Corruption Law 06-01 established a specialized entity responsible for investigating corruption offenses and revealing the perpetrators of such acts, embodied in the Central Office for the Repression of Corruption. Presidential Decree No. 11-426, modified and supplemented, defined its structure, its organization, its operation as well as its characteristics which distinguish it from the High Authority for Transparency, Prevention and Fight Against Corruption (TPFAC)¹.

In this section, we will discuss its legal nature and composition.

1 The Office was created pursuant to the instruction of the President of the Republic N 0 03, relating to the implementation of the fight against corruption, dated 13/12/2009, and was organized by decree presidential N 0 11/426, dated 08/12/2011, which establishes the composition of the Central Office for the Repression of Corruption, its organization and its functioning. JORADP, N 0 68, dated 12/14/2011, amended and supplemented by Presidential Decree N 0 23/69, dated February 7, 2023, JORADP, N 0 09, dated February 12, 2023.

First: The legal nature

The legal nature of the Central Office for the Repression of Corruption is clearly defined in the decree organizing its operation, as follows:

01 - The Office is a central operational service of the judicial police: article 02 of presidential decree 11-426 stipulates: "The Office is a central operational service of the judicial police responsible for investigating offenses and resolving them. noted in the fight against corruption.

It appears from this article that the Office is considered as an organ of the judicial police, subject to a dual authority in terms of management, control and supervision, namely the judicial authority and the executive authority represented by the minister of Justice, the Keeper of the Seals¹.

02 - The affiliation of the Office to the Minister of Justice, Keeper of the Seals: this is manifested in accordance with article 03 of presidential decree 14-209 dated 07/13/2014, modified and supplemented by presidential decree No. 23-69 dated 02/07/2023, which states: "The Office is attached to the Minister of Justice, Keeper of the Seals, and enjoys independence in its work and management".

It appears from this article that the Office is attached, in the exercise of its functions, to the executive authority represented by the Minister of Justice, Keeper of the Seals, in the same way as the judicial authority. This limits its role in the fight against corruption, in particular with the adoption, in paragraph 2 of the same article 03, of the principle of the independence of the Office in its work and management.

03 - The absence of legal personality and financial independence of the Office: under articles 23 and 24 of decree 11-426, modified and supplemented by presidential decree no.

1 Abdullah LAOUIDJI and Nacera BENAÏSSA, *The Central Office for the Fight against Corruption*, Researcher's Review for Academic Studies, University of Batna, Algeria, Volume 08, N0 02, Year 2021, p. 05.

14-209 dated 07/23/ 2014, amended and supplemented by Presidential Decree No. 23-69 dated 02/07/2023, the Director General is responsible for managing the budget of the Office, subject to the approval of the Minister of Justice, Guard of the Seals. This confirms that the Office does not enjoy legal personality or financial independence, unlike the High Authority for Transparency, Prevention and the Fight Against Corruption (TPFAC)¹.

However, despite the Office's belonging to the executive authority, the researcher does not consider this as a defect affecting the independence of the Office and its effectiveness in the fight against corruption offenses, contrary to what some researchers think. Indeed, the Office is subject to the judicial authority in the exercise of its functions, in particular the investigation and research of corruption offenses, as well as the arrest of their perpetrators. He exercises these functions under the direction of the public prosecutor, under the supervision of the public prosecutor and under the control of the indictment chamber. This allows the Office to draw its independence, strength and effectiveness from the independence of the judicial authority, particularly with regard to investigations and legal proceedings.

Second: The composition and structures of the Central Office for the Fight against Corruption (COFC).

The composition of the office was defined by articles 06 to 09 of presidential decree 11-426 amended and supplemented by presidential decree number 23-69 dated 02/07/2023, which includes: employees of the office, officers and agents of the judicial police under the Ministry of National Defence², officers

1 Djamel GUERNACH, *The Central Office for the Fight against Corruption... A repressive tool with limited powers*, Voice of the Law Review, Faculty of Law and Political Science, Hassiba Ben Bouali University, Chlef, Algeria, Volume 09, N0 01, Year 2022, p. 1156.

2 See article 02 of the joint ministerial decision dated November 25, 2019, setting the number of officers and agents of the judicial police under the Ministry of National Defence placed under the authority of the Central Office of Repression of Corruption, JORADP, N0 04, dated January 26, 2020.

and agents of the judicial police under the Ministry of the Interior[13], public officials competent in the field of the fight against corruption, employees support made available to the office by administrations, institutions and public bodies.

Articles 10 and 11 of Presidential Decree 11-426 also stipulate that the office is headed by a general director appointed by presidential decree on the proposal of the Minister of Justice, Keeper of the Seals, and his functions end in the same manner ¹. The central office consists of an office chaired by the director of the office, assisted by five (05) directors of studies, directors of investigations and general administration ². These two directorates are subdivided into several subordinate directorates.

Sub-chapter 3: Skills of the Judicial Police

First: Territorial jurisdiction

01- Criteria of territorial jurisdiction.

The criteria of territorial jurisdiction of the Judicial Police are established on the basis of the criteria defined by the Algerian legislator to determine the territorial jurisdiction of the Prosecutor and the investigating judge in articles 37 and 40 of the Code of penal procedure ³. Thus, referring to the general rules of the Code of Criminal Procedure, the rules of territorial jurisdiction of the Judicial Police to investigate corruption offenses and their proceeds are established either depending on the place where the corruption offenses and related offenses took place. been committed, either based on the place of

1 Please see sections 10 and 13 of amended and supplemented Presidential Decree 11-426 mentioned above.

2 Please see sections 11 through 18 of amended and supplemented Presidential Decree 11-436 mentioned above.

3 Please consult articles 37 and 40 of law N0 04-14 amended and supplemented relating to Algerian criminal procedures.

residence of a suspect, or based on the place of arrest of one of the suspects, even if this arrest took place for another reason ¹.

02- Extension of territorial jurisdiction in corruption offenses.

Article 24 bis 1 of Decree 10-05 amended and supplementing Law 06-01 relating to the prevention and fight against corruption stipulates that the officers of the Judicial Police reporting to the Office central office for the repression of corruption exercise their functions in accordance with the Code of Criminal Procedure and the special law on corruption. In addition, paragraph 03 of the same article 24 bis 1 specifies that the territorial jurisdiction of officers of the Judicial Police in corruption offenses and related offenses extends over the entire national territory, unlike officers of the Judicial Police falling under other services (National Security, National Gendarmerie) whose territorial jurisdiction to prosecute corruption offenses does not extend over the entire national territory, except in the case of a link between the crime of corruption and preliminary corruption procedures. investigation into money laundering. In this case, the territorial jurisdiction of the officers of the Judicial Police becomes national, in accordance with article 16, paragraph 7 of the Code of Criminal Procedure, like offenses related to drugs, organized transnational offenses, offenses related to automated data processing systems, terrorist offenses, as well as offenses related to special spending legislation.

In these offenses, a Judicial Police officer may, unless opposed by the competent Prosecutor after notification, extend his jurisdiction to the entire national territory in order to carry out surveillance of persons against whom there are indications of suspicion, as well as to monitor the movements, transport of objects, money or products originating from the said offenses

1 Mohamed Hazit, *Principles of criminal procedures in Algerian legislation*, third edition, Dar Balqis for the edition, Algiers, 2022, p. 143.

mentioned above or likely to be used to commit them, in accordance with article 16 bis of law 06-22 ¹.

It is however remarkable that the Algerian legislator, through article 16, paragraph 7 of the Code of Criminal Procedure, has not addressed the question of the extension of territorial jurisdiction to the entire national territory in offenses of corruption for the benefit of Judicial Police officers other than those reporting to the Central Office for the Repression of Corruption, despite their seriousness in relation to the offenses mentioned above, which could be an involuntary omission on the part of the Algerian legislator ².

Second: Specific (material) skill

This is the extent to which a law enforcement officer specializes in a certain type of offense rather than others. Algerian legislation distinguishes between the general competence and the special competence of judicial police officers, in accordance with article 16 of law 19/10 amended and supplemented on criminal procedures. Judicial police officers provided for in Article 15 of the Criminal Procedure Act are authorized to investigate all types of offenses without specifying one in particular ³.

1 Law N0 06-22 dated 12/20/2006, amended and supplemented by the law relating to Algerian criminal procedures, JORADP, N 0 84, dated 12/24/2006.

2 Hazit Mohamed, *The exceptional skills granted to the prosecution and investigation bodies concerning crimes of corruption in Algerian legislation*, Review of the Teacher Researcher in Legal and Political Studies, University of Lounici Ali Belhadj, Blida 2, Algeria, Volume 05, N 0 02, year 2020, p. 372.

3 Bakheri Abderrahmane and Hamr Al Ain Mokaddam , *The organization of the judicial police system and their skills in light of the modification of the law relating to criminal procedures by law 19/10*, Journal of Research in Law and Political Sciences, University of Tiaret, Algeria, Volume 08 , N 0 03, year 2023, p. 177.

Regarding the special competence in the fight against corruption, this mainly falls to the judicial police officers under the Central Anti-Corruption Directorate, who are responsible for investigating corruption offenses, which constitute the objective principal in the creation of this entity. On the other hand, the judicial police services relating to national security and the national gendarmerie have also created specialized teams responsible for investigating economic and financial offenses, in particular corruption, money laundering and all forms of concealment and concealment of the proceeds of corruption.

In the same context, article 24 bis 1 of decree 10-05 amended and supplemented relating to the prevention and fight against corruption provides that corruption offenses fall within the jurisdiction of specialized courts, also called judicial centers¹. Articles 40 to 40 bis 4 of the Code of Criminal Procedure deal with the way in which specialized judicial centers are seized of corruption cases.

The procedure begins with the notification of the judicial police officer deputy to the public prosecutor competent for the territory where the crime of corruption or one of the related offenses was committed, accompanied by the original of the report and two copies. Then, the latter sends a copy of the file to the public prosecutor at the territorially competent judicial center, who immediately requests the file of the procedure if he considers that the crime falls within the jurisdiction of the center, after having obtained the opinion of the attorney general at the competent department. Likewise, the public prosecutor at the specialized judicial unit, after having obtained the opinion of the public prosecutor, may request the procedural file at all stages of the case. If a judicial investigation is opened into a corruption case, the investigating judge issues a transfer order to the investigating judge at the competent judicial center. In the event of transmission of the procedural file, the judicial police officers working within the jurisdiction of the competent center

1 Executive decree N 0 06-348 dated 05/10/2006, provides for the extension of the local jurisdiction of certain courts, public prosecutors and investigating judges, JORADP, N 0 63, dated 08/10/2006.

receive instructions directly from the public prosecutor or the investigating judge at the competent judicial center¹.

CHAPTER 2: Ordinary methods of investigation into the proceeds of corruption.

According to paragraphs 1 and 2 of article 17 of the Code of Criminal Procedure, judicial police officers cannot, during the exercise of their functions within the framework of preliminary investigations and the execution of judicial requisitions, request or receive instructions or orders only from the authority to which they are attached, in accordance with the provisions of article 28 of the same code². In addition, article 18 of the Code of Criminal Procedure stipulates that judicial police officers must immediately inform the competent public prosecutor of the offenses and offenses of which they are aware, and once their work is completed, they must transmit the cases to him. - verbal statements drawn up, accompanied by a certified copy and an inventory of all documents, parts and objects seized.

Analysing the previous articles, we can conclude that the general skills of judicial police officers in searching and investigating the proceeds of corruption are mainly as follows:

Sub-chapter 1: Collecting clues

The collection of clues includes all the preliminary measures taken by the judicial police to search for and investigate offenses, collect evidence and clues of different natures with the aim of enlightening the public prosecutor so that he can act within the framework of a specific public action. Among the general investigation procedures into the proceeds of corruption, we can mention:

1 See articles 40 to 40 bis 4 of the Code of Criminal Procedure.

2 Article 28 of the Code of Criminal Procedure defines the powers of walis in matters of judicial control.

- **Receipt of complaints and denunciations:** The judicial police are responsible, in the context of corruption offenses and the prosecution of their proceeds, of collecting statements from people reporting corruption offenses or the location of their proceeds, as well as to hear complainants, suspects and witnesses, as well as any person linked to the crime or its perpetrators ¹.

- **Transfer and inspection:** This refers to the movement and inspection on the ground of the place where the crime was committed, such as traveling to official or unofficial institutions or any other place for the purpose of inspecting any which can help in discovering where the money is to be recovered, and usually law enforcement officers call upon forensic teams to photograph items found at the crime scene and present them as evidence in the case file.
- **Visual surveillance:** The visual surveillance method consists of secretly observing suspects hiding the proceeds of corruption in order to collect all the information useful to the investigation, with the aim of identifying accomplices to the crime and witnesses to benefit from their testimonies, such as tracking the suspects' movements and places they frequent, such as their frequentation of certain banks, as well as the people they meet, whether family members, friends, relatives, etc., with emphasis on employees of airports, banks, taxes, lawyers and accountants who have direct or indirect relationships with them and who could facilitate the process of laundering, trafficking or concealment of the proceeds of corruption ².
- **Call on experts:** Article 49 of the Code of Criminal Procedure allows judicial police officers to call on qualified

1 Mohamed Hazzit, Op. Cit, (*Principles of criminal procedure in Algerian law*), P. 152.

2 Imad Ali Rabat Al- Zamil, *Recovery of illegal funds from administrative and financial corruption crimes (comparative study)*, first edition, Arab Center for Publication and Distribution, Egypt, 2024, P. 304.

people to assist them in technical or technological questions as part of their research and investigation work. such as the use of financial operations analysts with experience and knowledge of financial services, money laundering methods and the examination and analysis of financial records and flows.

Subchapter 2: Search

Articles 44 to 47 of the Code of Criminal Procedure established the conditions to be respected during searches of the homes of suspects or persons linked to the crime, as well as the time slot of the inspection, which goes from 5 a.m. until 8 p.m., unless the owner of the home requests it or there are calls from within, or if the search aims to investigate offenses punishable by articles 342 to 348 of the Algerian Penal Code, in which case the judicial police officer may carry out the search outside legal hours¹.

However, when it comes to researching and investigating money laundering offences, judicial police officers are authorized, under Article 47, paragraphs 3 and 4 of the Code of Criminal Procedure, to inspect homes at any time of the day or night, throughout the national territory, in the presence of the owner of the home or two non-public servant witnesses under the authority of the judicial police officer, with prior authorization from the district Attorney ².

Subchapter 3: Police custody

As a general rule, articles 51 and 65 of the Code of Criminal Procedure set the duration of police custody at 48 hours. However, in the case of corruption offences, similar to

1 Ahsan BOUSKIAA, *The judicial investigation*, 13th edition, Dar Huma for printing, publishing and distribution, Algeria, 2021, P. 99.

2 Mohamed Hazzit, Op, Cit, (*Exceptional powers granted to monitoring and investigation bodies concerning crimes of corruption in Algerian law*), P. 370.

certain exceptional serious offenses with different extension periods, the judicial police officer may, during the investigation of corruption offences, extend the period of police custody. up to three times with written authorization from the public prosecutor, in accordance with article 65, paragraph 5 of Decree 15-02 modifying and supplementing the Code of Criminal Procedure.

It should be noted in this regard that the investigation procedures are not limited to what has been mentioned above. The law allows the judicial police officer to take any measure he deems appropriate to investigate the crime and arrest its perpetrators, while respecting the law and procedural legality. Among the effective investigative activities that the judicial police officer can undertake to trace and uncover the proceeds of corruption, and then seek to recover them by the judicial authority, include for example the possibility of calling on an expert to assist the judicial police officer in the investigation aspect by providing him with useful information, such as the location of the people being investigated, the identification of their family circle and their friends likely to help them conceal the criminal proceeds, as well as monitoring the suspected person's spending in relation to their monthly salary. Additionally, coordination with financial institutions such as banks can assist in investigations into the suspect's financial situation and reveal methods of transferring criminal proceeds. The judicial police officer may also call on customs services at airports and ports to determine the suspect's transit movements and the value of the funds he held.

THE SECOND PART: EXTRAORDINARY POWERS OF THE JUDICIAL POLICE

We will discuss, during this study, the special investigation techniques approved by the Algerian legislator and used by judicial police officers to investigate the proceeds of criminal corruption. These techniques mainly include the controlled delivery method, electronic surveillance and infiltration (first aspect). In the second aspect, we will examine

the ban on leaving the national territory and the competence of the judicial police officer to execute letters rogatory issued by the investigating judge in two distinct areas.

CHAPTER 1: special investigative techniques

The Algerian legislator introduced, via article 56 of the Corruption Law 06/01, special investigation methods in order to facilitate the collection of evidence related to corruption offenses and to reveal their perpetrators. He authorized law enforcement officers to use the method of controlled delivery, electronic surveillance and infiltration (leak). However, the use of these special investigative techniques can only be done with the authorization of the judicial authority, because they violate the privacy of private life and individual freedoms. The Algerian legislator also specified the special investigation techniques in articles 65 bis to 65 ter of the Code of Criminal Procedure, limiting their scope of application to seven categories of serious offenses, including corruption offenses.

Subchapter 1: controlled delivery of criminal proceeds

Article 2 of the Corruption Law 06/01 defines controlled delivery as "the procedure which allows illegal or suspicious shipments to leave, cross or enter the national territory, under the control and surveillance of competent authorities, in order to investigate a particular crime and reveal the identity of those involved in its commission. This concept of controlled delivery constitutes an exception to the general principle according to which all offenses committed on the territory of the State come under national criminal law, in application of the principle of territoriality of the criminal text ¹.

1 Arbaoui Khadija and Belarabi Abdelkrim, The legality of modern investigation methods to detect corruption crimes in Algerian legislation, *Revue des sciences humaine*, University of Umm al- Bouaghi, Algeria, Volume 09, N 0 03, 2022, P. 880.

Article 16 ter of the Code of Criminal Procedure provides that judicial police officers, with the authorization of the public prosecutor, may extend their local jurisdiction throughout the national territory in order to monitor people, destinations or transfers of goods, money or proceeds resulting from the offenses mentioned in Article 16 of the same law.

In the same context, the United Nations Convention against Corruption has certain provisions regarding controlled delivery in the fourth chapter, allowing judicial authorities to seize illicit goods and funds or allow them to continue to their destination final, in order to reveal the people involved in the trafficking of corruption proceeds¹.

The objective of introducing this special method of investigation is to enable judicial police officers, placed under the supervision of the judicial authority, to monitor criminal proceeds, both nationally and internationally, in order to discover the real perpetrators as well as other accomplices involved in the crime. Without the use of this method, ordinary investigations would not be able to seize criminal proceeds without revealing the actual perpetrators or arrest individuals who have no active role in the illegal transfer of criminal proceeds, such as drug drivers. trucks that are unaware that the cargo they are carrying is legal or illegal.

Subchapter 2: Electronic surveillance

Like article 56 of law 06/01, the Algerian legislator provided for electronic surveillance in articles 65 bis 5 to 65 bis 10 of the Code of Criminal Procedure, which he called "interception of correspondence, voice recording and image capture.

1 Bousaïd Majda, Legal Mechanisms for Recovering Criminal Proceeds in the Fight Against Corruption, Dissertation Submitted for Completion of Postgraduate Doctorate Requirements, Kasdi Merbah University Ouargla - Department of Law and Political Science, Algeria, 2018, P. 74.

First – Interception of correspondence.

Correspondence interception procedure is defined as "the process of covertly monitoring wired and wireless correspondence in the search and investigation of crime, and the collection of evidence or information about persons suspected of committing or participating in it ¹.

Second – Recording Voices.

This is done by monitoring the phone calls of the people to be monitored, whether wired or wireless, and recording them, or by placing sensitive devices to pick up and record the voices, whether in public or private places.

Third – Image capture.

This is done by visually fixing people under investigation using camera devices usually hidden and camouflaged in specific locations, with the aim of building physical evidence that will help in the investigation of corruption offenses and the resulting criminal activities, as well as to identify the perpetrators.

Due to the seriousness of this investigation method and its attack on the privacy of individuals, the Algerian legislator has surrounded it with several procedural controls. The use of this method is only possible if the necessity of the investigation requires it in specific offenses, in particular corruption offenses, and it is carried out by a judicial police officer under judicial authorization. issued by the public prosecutor or the investigating judge. This authorization must contain all the elements allowing the identification of the communications to be intercepted and the locations targeted, whether residential or not. The written authorization is valid for a maximum period of 4 months, renewable according to the needs of the investigation or instruction. In addition, the judicial authorization given to the

1 Abderahman Khalfi, Op, Cit, P. 98.

judicial police officer allows him to take technical measures to enter residential or other places, even outside the hours provided for in article 47 of the Code of Criminal Procedure, without the consent of the people having the right to these places. The judicial police officer draws up a report after each operation and undertakes to respect the professional secrecy of the tasks entrusted to him.

Subchapter 3: Infiltration

The Algerian legislative text provides for infiltration in the Code of Criminal Procedure through articles 65 bis 11 to 65 bis 18. Infiltration is defined as follows: "The judicial police officer, under the responsibility of the judicial police officer, judicial police responsible for coordinating the operation, monitors people suspected of having committed a crime or misdemeanour by making them believe that he is their accomplice, partner or informant. The judicial police officer is also authorized to use a fictitious identity during the infiltration operation and to commit acts which give the impression that he is the author or accomplice of the offenses, without inciting the commission of infractions. This measure can only be used if the necessity of the investigation justifies it, in particular in the case of offenses such as corruption, terrorism, money laundering, cross-border offenses, offenses related to payments legislation, offenses related to automated data processing systems. Written authorization from the public prosecutor or the investigating judge is necessary, and the authorization must specify the type of crime justifying the use of this measure, as well as the identity of the judicial police officer responsible for coordinating the operation. The duration of the operation cannot exceed four (04) months, renewable under the same formal and temporal conditions depending on the requirements of the investigation¹.

1 See articles 65 bis 11 to 65 bis 18 of law 06-22 amended and supplemented on Algerian criminal procedure.

CHAPTER 2: The ban on leaving the national territory and the execution of letters rogatory

In this request, we will address the order prohibiting leaving the national territory issued by the public prosecutor during the first investigations, based on the proposal of the judicial police officer investigating the case. This is done through the first section. In the second section, I will deal with the competence of the judicial police officer in the execution of letters rogatory issued by the investigating judge.

Subchapter 1: Proposed ban on leaving the national territory

The Algerian legislator has granted to judicial police officers, as part of their first investigations into corruption offences, whether it is a crime subject to a preliminary investigation or a misdemeanour, the right to draw up a supporting report and transmit it to the public prosecutor in order to issue an order prohibiting leaving the national territory. The report must indicate the serious reasons on which this measure is based, such as evidence that may incriminate the suspect in the facts under investigation and the fear that the suspect will flee abroad due to the seriousness of the facts being investigated, or if it is necessary to keep the person concerned on the national territory to continue the investigation with them, until the end of the investigations and the sending of the file to the public prosecutor the Republic. The same article sets the duration of the order prohibiting leaving the national territory at three (03) months, renewable several times until the end of the first investigations into corruption and terrorism offenses and the sending of the file of the procedures carried out to the public prosecutor, who can then initiate public proceedings or close the file ¹.

1 Mohamed Hazzit, Op, Cit, (*Exceptional powers granted to monitoring and investigation bodies concerning crimes of corruption in Algerian law*), P. 364.

It should be noted that the order prohibiting leaving the national territory issued by the public prosecutor is not subject to appeal, which makes it an arbitrary measure and an attack on individual rights guaranteed by the Constitution. It is therefore necessary for the Algerian legislator to become aware of this legislative gap and make the necessary modifications to ensure respect for the fundamental rights of individuals while allowing the effective continuation of investigations.

Subchapter 2: Execution of judicial delegations

In principle, the investigating judge is responsible for judicial investigation procedures. However, if necessary, he may legally delegate a judge of the court or any other judicial police officer to carry out certain judicial investigation procedures by virtue of a judicial delegation signed by the delegating investigating judge. This delegation must specify the name, the capacity of the person delegated, the investigative measures required as well as the date of the delegation.

Articles 138 and 139 of the Algerian Code of Criminal Procedure also stipulate that the delegated investigating judge cannot generally delegate to the delegate the power to conduct judicial investigation procedures or delegate the power to issue restrictive orders, to question the suspect, to confront him with other people or to hear the civil complainants. The delegation to the judicial police officer is limited to specific procedures defined in the delegation, linked to the crime being investigated¹, such as the hearing of witnesses, searches, provisional arrests, inventory of the real and movable property of the suspect or any person linked to him, the disclosure of current accounts or bank balances.

In addition, if the circumstances of the investigation require the provisional detention of the person, in accordance with article 141 of the Code of Criminal Procedure, the judicial police officer may proceed to this measure on condition of presenting it within 48 hours before the delegated investigating

1 Ahsan BOUSKIAA, Op, Cit, P. 120.

judge. The latter may also extend this period of 48 hours by reasoned decision of the delegated judicial police officer¹, whether the latter belongs to a national security service, the national gendarmerie or the Central Anti-Corruption Office. This rule also applies to searches and special investigation methods, while respecting the procedural rules governing each procedure subject to judicial delegation.

Conclusion

Algeria's accession to the United Nations Convention against Corruption in 2004 prompted the Algerian legislator to respect the provisions of the convention and quickly promulgate a special anti-corruption law, Law 06-01. This law includes various mechanisms to combat corruption offenses, such as investigation methods and monitoring of illicit income, entrusting the judiciary with a set of general skills in the investigation and detection of offenses, including corruption offenses, as well as certain exceptional powers provided for by the Criminal Procedure Law and the Anti-Corruption Law 06/01. It also created a specialized anti-corruption agency, the National Corruption Suppression Bureau, to strengthen the judiciary and put in place special investigation methods to detect all corrupt practices, in order to 'achieve the objectives desired by the Algerian legislator, in particular in the fight against serious and complex offenses.

Among the results we obtained during this study, we mention the following:

- The establishment by the Algerian legislator of special investigation methods to detect corruption offenses and their illegal income, such as surveillance, electronic surveillance and infiltration, allows the judicial system to facilitate the detection of complex offenses and methods of concealing

1 Mohamed Hazzit, *Memoirs on Algerian criminal procedure law*, Dar Huma, Algeria, 2006, P. 179.

corrupt proceeds, as well as avoiding lengthy investigation and judicial follow-up procedures.

- The creation by the Algerian legislator of an agency specialized in the fight against corruption, such as the Central Bureau for the Repression of Corruption, constitutes a quality contribution on the part of the judicial system to dismantle corruption networks and reveal their complexities plaguing society and state institutions.

However, despite these positive results mentioned previously, which have shown their effectiveness on the ground in Algeria, particularly in recent years in monitoring corrupt officials or what is politically called "the clan", this does not prevent us from formulating certain recommendations, including:

- The need to develop means of cooperation between the judicial system under the Office and other organs of the judicial system, in order to serve the fight against corruption, and this can be achieved by amending the law on criminal procedures.
- The need to modify the anti-corruption law by including in the financial investigation assets, subsidiaries, as well as peripheral aspects linked to the perpetrators of corruption.
- The reorganization of the surveillance method by setting its duration and detailing its procedures at the national and international level, in order to guarantee the freedom of movement of people and to protect the judicial police agents involved in the implementation of this type of surveillance. investigation methods.

List of reference :

- Abderrahmane KHALFI, *Criminal procedures in Algerian and comparative law*, 6th edition, Dar Belkis for the edition - Algeria, 2022.
- Abdullah LAOUIDJI and Nacera BENAÏSSA, *The Central Office for the Fight against Corruption*, Researcher's Review for Academic Studies, University of Batna, Algeria, Volume 08, N0 02, Year 2021.
- Ahsan BOUSKIAA, *The judicial investigation*, 13th edition, Dar Huma for printing, publishing and distribution, Algeria, 2021.
- Arbaoui Khadija and Belarabi Abdelkrim, The legality of modern investigation methods to detect corruption crimes in Algerian legislation, *Revue des sciences humaine*, University of Umm al- Bouaghi, Algeria, Volume 09, N 0 03, 2022.
- Bakheri Abderrahmane and Hamr Al Ain Mokaddam , *The organization of the judicial police system and their skills in light of the modification of the law relating to criminal procedures by law 19/10*, Journal of Research in Law and Political Sciences, University of Tiaret, Algeria, Volume 08 , N 0 03, year 2023.
- Bousaïd Majda, Legal Mechanisms for Recovering Criminal Proceeds in the Fight Against Corruption, Dissertation Submitted for Completion of Postgraduate Doctorate Requirements, Kasdi Merbah University Ouargla - Department of Law and Political Science, Algeria, 2018.
- Djamel GUERNACH, *The Central Office for the Fight against Corruption... A repressive tool with limited powers*, Voice of the Law Review, Faculty of Law and Political Science, Hassiba Ben Bouali University, Chlef, Algeria, Volume 09, N0 01, Year 2022.

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- Hazit Mohamed, *The exceptional skills granted to the prosecution and investigation bodies concerning crimes of corruption in Algerian legislation*, Review of the Teacher Researcher in Legal and Political Studies, University of Lounici Ali Belhadj, Blida 2, Algeria, Volume 05, N 0 02, year 2020.
 - Imad Ali Rabat Al- Zamil, *Recovery of illegal funds from administrative and financial corruption crimes (comparative study)*, first edition, Arab Center for Publication and Distribution, Egypt, 2024.
 - Mohamed Hazzit, *Memoirs on Algerian criminal procedure law*, Dar Huma, Algeria, 2006.
 - Code of Criminal Procedure defines the powers of walis in matters of judicial control.
 - The United Nations Convention against Corruption, adopted by the General Assembly on October 31, 2003 pursuant to resolution 58/04 and opened for ratification at the High-Level Conference held in Mérida, Mexico, from 9 to 11 December 2003, entered into force on December 14, 2003. Algeria ratified it by Presidential Decree N 0 04-128, dated April 19, 2004, JORADP, N 0 26, dated April 29, 2004.
 - Law N 0 06-01, dated February 20, 2006, relating to the prevention and fight against corruption, JORADP, N 0 14, published on 03/08/2006, amended and supplemented by Law 11-15, dated August 2, 2011, JORADP, N 0 44, dated August 10, 2011.
 - law N 0 90-03, dated February 6, 1990, relating to the responsibilities of the Labour Inspectorate, JORADP, N 0 06, 1990.
 - law N 0 79-07, dated July 21, 1979, amended and supplemented, relating to customs legislation, JORADP, N 0

30, 1979, amended and supplemented by law N 0 17- 04, dated February 16, 2017, JORADP, N 0 11, 2017.

- law 09-03, dated February 5, 2009, relating to consumer protection and the repression of fraud, JORADP, N 0 15, year 2009.
- law N0 04-14 amended and supplemented relating to Algerian criminal procedures.
- Mohamed Hazit, *Principles of criminal procedures in Algerian legislation*, third edition, Dar Balqis for the edition, Algiers, 2022.
- Law N0 06-22 dated 12/20/2006, amended and supplemented by the law relating to Algerian criminal procedures, JORADP, N 0 84, dated 12/24/2006.
- Executive decree N 0 06-348 dated 05/10/2006, provides for the extension of the local jurisdiction of certain courts, public prosecutors and investigating judges, JORADP, N 0 63, dated 08/10/2006.