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Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Algeria

1. Introduction: overview of the legal and institutional framework of Algeria in the context of implementation of the United Nations Convention against Corruption

The People's Democratic Republic of Algeria signed the United Nations Convention against Corruption on 9 December 2003 and ratified it, with a reservation to article 66, paragraph 2, by Presidential Decree No. 04-128 of 19 April 2004. Algeria deposited its instrument of ratification with the Secretary-General of the United Nations on 25 August 2004.

Algeria was reviewed in the third year of the first review cycle and the executive summary of that review was published on 17 June 2013 (CAC/COSP/IRG/I/3/1).

The Algerian legal system is a civil law system. Algeria has adopted the principle of direct applicability of international conventions. Duly ratified treaties have higher authority than national laws (art. 150 of the Constitution).

The national legal framework for preventing and combating corruption comprises provisions under several pieces of legislation, including Act No. 06-01 of 20 February 2006 on the prevention and combating of corruption, as amended (the Anti-Corruption Act); Ordinance No. 06-03 of 15 July 2006 on the General Civil Service Regulations; Presidential Decree No. 15-247 of 16 September 2015 on public procurement and public service concessions; the Criminal Code; the Code of Criminal Procedure; and Act No. 05-01 of 6 February 2005 on the prevention and combating of money-laundering and financing of terrorism, as amended (the Anti-Money-Laundering Act).

Algeria is also a party to a number of international agreements on international cooperation, crime control and crime prevention.

The Algerian authorities cooperate internationally through various mechanisms and networks, including the Middle East and North Africa Financial Action Task Force, the Egmont Group of Financial Intelligence Units and the International Criminal Police Organization (INTERPOL).

Algeria has several bodies and agencies concerned with preventing and combating corruption, including the National Agency for the Prevention and Combating of Corruption, the Central Office for the Repression of Corruption, the General Financial Inspectorate, the Court of Auditors, the Higher Council of the Civil Service and the Financial Intelligence Unit.

2. Chapter II: Preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Algeria has implemented a policy and a comprehensive programme to prevent and combat corruption. A new national anti-corruption strategy for the period 2020–2024 is being finalized.

The National Agency for the Prevention and Combating of Corruption (ONPLC) was established pursuant to the Anti-Corruption Act, and its organization and functions were set out in Presidential Decree No. 06-413 of 22 November 2006, as amended by Presidential Decree No. 12-64 of 7 February 2012.

The most recent amendments to the Constitution, in 2016, notably the insertion of the new articles 202 and 203, elevated the ONPLC to a higher institutional level – under the President of the Republic – with the status of independent administrative authority in charge of national anti-corruption policy. The ONPLC publishes annual evaluation reports on the prevention and combating of corruption in which it highlights the

shortcomings it has identified and proposes legislative and administrative recommendations. Algeria also has a Central Office for the Repression of Corruption. Established by Presidential Decree No. 11-426 of 8 December 2011, the Office is an operational police criminal investigation service with nationwide jurisdiction under the authority of the Minister of Justice. It is responsible for investigating corruption and related offences.

The National Public Service Observatory is an advisory body whose responsibilities include evaluating and supervising actions to implement national anti-corruption policy, in consultation with ministerial departments and other relevant institutions, and preparing studies, evaluations, indicators, statistics and information in support of actions to improve the quality of public service. The Court of Auditors, the General Financial Inspectorate and the Higher Council of the Civil Service also have responsibilities in the area of preventing corruption. These bodies enjoy the necessary independence to carry out their functions in this area.

Algeria participates in regional and international initiatives and organizations that contribute to the prevention of corruption, including the Arab Anti-Corruption and Integrity Network and the African Association of Anti-Corruption Authorities.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Recruitment of civil servants is subject to the principle of equal access to public employment, in accordance with the criteria and procedures established under articles 74 to 80 of Ordinance No. 06-03 of 15 July 2006 on the General Civil Service Regulations. Vacancies are publicly advertised in the print media and published on a dedicated website for civil service competitions (www.concours-fonction-publique.gov.dz). Criteria for the recruitment of civil servants are specifically defined in the statutes of the various civil service bodies. Recruitment to civil service posts is by competition and based on objective criteria. Each institution or public administration establishes its own training, skills development and retraining programmes.

In accordance with the applicable regulations, each institution identifies the positions it considers vulnerable to corruption and lays down specific rules for appointments to these positions. All positions vulnerable to corruption appear on two updatable lists and persons holding these positions must file a declaration of assets. The first list is contained in the Anti-Corruption Act, while the second appears in Presidential Decree No. 06-415 of 22 November 2006, which lays down the procedures for asset declarations by public officials holding positions other than those listed in the Anti-Corruption Act. The implementing regulations of this decree were adopted by the Order of 2 April 2007, establishing the list of public officials required to file a declaration of assets, which was amended by the Order of 16 January 2017. The ONPLC has also prepared an inventory of public positions considered particularly vulnerable to corruption, which is regularly reviewed and updated.

The offices of President, members of both chambers of the Parliament and members of the People's Municipal Assemblies and the People's Provincial Assemblies are elective. The Constitution and Ordinance No. 06-03 of 15 July 2006 on the General Civil Service Regulations lay down the conditions that candidates for elective office must meet. The electoral law also sets out the grounds for disqualification of a candidate, such as having a criminal conviction. All candidates for elective office must file a declaration of assets to the Supreme Court at the beginning and end of their term in office, as well as during their term if their assets increase significantly (art. 4 of the Anti-Corruption Act). Failure to declare or the provision of inaccurate information may lead to criminal prosecution (art. 36 of the Anti-Corruption Act), cancellation of the electoral mandate and/or disqualification from exercising civic and civil rights (arts. 9, para. 2, and 9 bis 1, para. 2, of the Criminal Code). Civil servants who stand for public elected office must leave their posts during the election campaign and are relieved of all duties related to the election in which they will participate.

Only identified natural persons who are Algerian nationals can make contributions to political parties and these contributions may not exceed 300 times the national minimum wage. Contributions must be paid into the bank account opened in the name of the party (arts. 54–55 of Act No. 12-04, the Political Parties Act). The leaders of political parties are required to submit audited financial reports every year (art. 60 of the Political Parties Act).

Article 7 of the Anti-Corruption Act requires the State, elected assemblies, local authorities, institutions and bodies governed by public law and public enterprises to adopt codes and rules of conduct. Professional obligations related to the integrity, good conduct and accountability of public officials are governed by the General Civil Service Regulations and by the Anti-Corruption Act, which requires officials to follow certain rules of conduct concerning their private interests and their relations with their employers and the public. Accordingly, public officials must refrain from any actions that are incompatible with the nature of their functions, even when off duty. Failure to comply with the principles and the ethical standards that are laid down is punishable by disciplinary or criminal sanctions under the General Civil Service Regulations. Codes of ethics and conduct specific to certain administrations are being drawn up in areas such as water resources and forests, but also for the Court of Auditors and for participants in public procurement.

Any official or other person who, in the context of his or her profession or duties, becomes aware of a corruption-related offence and does not report it to the competent public authorities is committing a criminal offence (art. 47 of the Anti-Corruption Act). Legislation has been drafted to ensure the protection of persons who report corruption.

The independence of the judiciary was reaffirmed under article 156 of the Constitution when it was last amended, in March 2016. Article 166 provides that judges must be protected against all forms of pressure, actions or manoeuvres that might hinder the performance of their duties. On 6 September 2004, Algeria adopted two laws in the context of justice reform. The first sets out the organization of the judiciary, while the second establishes the composition, functioning and powers of the Higher Council of Justice. These laws are supplemented by a charter of ethics for justice officials, adopted by the Higher Council of Justice on 23 December 2006. An independent constitutional body, the Council is responsible for the organization of the judicial profession, including the appointment, nomination, promotion and transfer of judges, under the chairmanship of the President of the Republic.

The Council is also responsible for disciplinary matters, including suspension and dismissal, under the chairmanship of the Senior President of the Supreme Court. Any conduct by a judge or prosecutor that is likely to undermine the integrity and transparency of the judiciary may lead to disciplinary or criminal sanctions. Disciplinary sanctions against justice officials vary depending on the seriousness of the misconduct and may include transfer, demotion, suspension and dismissal. Concerning the initial and in-service training needs of members of the judiciary, including with regard to codes of conduct, integrity and autonomy, Algeria has implemented several programmes and courses to raise their awareness both of the seriousness of corruption and of ways to prevent it, as part of initial, in-service or specialized training. The public prosecution service in Algeria is part of the judicial system. Prosecutors and judges follow the same basic training and are subject to the same standards of integrity and accountability and the same lines of authority and disciplinary mechanisms. Although both graduate from the Judicial Training College, prosecutors are completely independent of judges.

Public procurement and management of public finances (art. 9)

In Algeria, the public procurement system is decentralized. Personnel responsible for procurement are required to hold special qualifications and be trained in the prevention of corruption. Anyone who fails to respect the principles of freedom of access, equal treatment of candidates and transparency is liable to the penalties laid

down in the laws and regulations in force, in particular Ordinance No. 95-20 of 17 July 1995 on the Court of Auditors, as amended. This law establishes the penalties that the Court may impose in the event of the discovery of overexpenditure. Public procurement in violation of the statutory and regulatory provisions is punishable under the Anti-Corruption Act.

Presidential Decree No. 15-247 of 16 September 2015 sets out the current legal framework for public procurement. This decree describes types of procurement, award methods, conditions of access, internal and external controls and remedies. Public works or supplies contracts with an estimated value of up to 12 million dinars, and contracts for studies or services with an estimated value of up to 6 million dinars, do not require a public procurement procedure. If the value of the contract exceeds the above thresholds, an invitation to tender is issued. Besides open invitations to tender, the decree also provides for a restricted tendering procedure – in which only candidates preselected on the basis of criteria defined in the specifications are invited to tender – and for the competitive tendering of projects with particular technical, economic, aesthetic or artistic aspects. Unsuccessful candidates for public contracts must be notified and may lodge an appeal with the relevant tender board within 10 days.

Algeria is developing an e-procurement system that will help streamline supply processes and increase transparency, while reducing opportunities for corruption.

The State budget is drawn up in accordance with the provisions of Act No. 84-17 of 7 July 1984. It is prepared in three phases. Firstly, a finance bill is drafted by the Ministry of Finance, accompanied by a note on the expenditure planned by the Directorate General of the Budget. Secondly, the ministries prepare budget proposals. In the third phase, discussions are held in interministerial councils chaired by the Prime Minister and the outcomes of those discussions are summarized. Once it has been approved by the People's National Assembly (the lower house of the Parliament), the bill is submitted to the Council of the Nation (the upper house). Debates on the finance bill in both chambers are broadcast live on a public television channel. There is currently no opportunity for the public or non-government stakeholders to comment on the draft national budget, although a pilot project for this purpose is under way at the municipal level.

The budget implementation procedure is subject to the legislative and regulatory framework on public accounting, in particular Act No. 90-21 of 15 August 1990 on public accounting. The Court of Auditors, the General Financial Inspectorate and the general inspectorates of the ministries are responsible for auditing and conducting studies and inquiries on economic, financial and accounting aspects.

The system for the keeping of public documents, books and accounting records is governed by the Public Accounting Act and Act No. 88-09 of 26 January 1988 on the national archives. The conservation and preservation of documents is primarily the responsibility of their users, in particular authorized officials and accountants, who are responsible for keeping receipts related to management operations until they are presented to the auditing bodies or for a period of 10 years. Documents of national interest or having particular value must be sent to the national archives.

Public reporting; participation of society (arts. 10 and 13)

The right of access to information is enshrined in article 51 of the Constitution. A bill has been prepared which sets out the procedures to be followed in order to obtain and to publicly share information, documents and statistics. The bill aims to specify the conditions in which the right to obtain and publicly share information, documents and statistics, while respecting the privacy of others, may be exercised.

Public institutions and bodies use official websites to publish information on the organization and management of their work and activities. All laws and regulations are published in the Official Gazette and on the website of the Secretariat General of

the Government (www.joradp.dz). An e-government bill is being drafted to improve transparency in the activities of the government and of public bodies.

On 16 November 2014, the Government established a national steering committee for the simplification of administrative procedures and a methodology note was sent to all ministerial departments to guide the preparation of annual sectoral simplification plans.

Citizenship is exercised through representation at the national level in the two chambers of the Parliament – with both chambers having seats reserved for the public and the broadcast media – and at the level of the People’s Municipal Assemblies and People’s Provincial Assemblies. A bill on public participation aims to encourage citizens’ involvement in addressing issues of concern for their neighbourhoods and municipalities.

In 2017, the ONPLC, in coordination with the Ministry of Finance, launched a study on the risks of corruption in the tax, customs and other national authorities, in which it classified the risks according to their recurrence and severity. As a result of the study, a preliminary approach was proposed for managing the implementation of preventive actions, and it was to be extended to other areas.

Representatives of civil society have participated as key actors in the development and implementation of the national anti-corruption strategy for the period 2020–2024. Media campaigns have been carried out to raise the public’s awareness and engage it in contributing to the fight against corruption. Several hotlines and websites have been set up to allow members of the public to report corruption, including anonymously.

Private sector (art. 12)

In order to strengthen transparency and integrity in the private sector, Act No. 07-11 of 25 November 2007 obliges private companies and other entities to adopt an accounting system, based on international standards, that meets the requirements of regularity, honesty and transparency in the presentation and communication of the information processed. Private companies are also under an obligation to prepare annual financial statements in accordance with their nature and their financial and economic situations. Article 13, paragraph 1, of the Anti-Corruption Act provides for the strengthening of cooperation between law enforcement authorities and private entities, in particular to combat money-laundering.

Article 13, paragraph 2, of the Act calls for private enterprises to develop instruments, including standards of conduct, to prevent conflicts of interest and promote the application of good commercial practices, both in their relations with each other and in their contractual relations with the State.

Private companies must identify the legal and natural persons involved in their establishment and management and register them with the National Trade Register Centre. In this regard the general framework is set forth in the Commercial Code, which recognizes only persons or companies entered in the trade register.

There is no legal obligation for private companies to carry out internal audits.

The accounting standards and procedures used in Algeria are those of the financial accounting system (Act No. 07-11 of 25 November 2007 on the financial accounting system), which requires private sector entities to keep accounts, subject to specific provisions for small enterprises. Financial and accounting records must be kept for a period of 10 years.

Concerning the rules on conflicts of interest, article 7 of Act No. 90-11 of 21 April 1990, the Labour Relations Act, prohibits employees from holding direct or indirect interests in companies or enterprises that are competitors, clients or subcontractors, unless the employer agrees otherwise, and from competing with the employer in its sector of activity. A similar provision is set forth in Ordinance No. 07-01 of 1 March 2007 on specific incompatibilities and obligations attached to certain jobs and

functions, which prohibits serving public officials from holding, either themselves or through an intermediary, in the country or abroad, interests in companies or bodies that they control or supervise, with which they have concluded a contract, or to which they have issued an award notice. This prohibition remains in effect for a period of two years after their service has come to an end.

Algeria does not expressly disallow the tax deductibility of expenses that constitute bribes (art. 141 of the Finance Act).

Measures to prevent money-laundering (art. 14)

The legal regime to combat money-laundering in Algeria consists primarily of Act No. 05-01 of 6 February 2005, as amended by Ordinance No. 12-02 of 13 February 2012 and Act No. 15-06 of 15 February 2015 on the preventing and combating of money-laundering and the financing of terrorism (the Anti-Money-Laundering Act); the guidance issued by the Financial Intelligence Unit in accordance with article 10 bis 5 of the Anti-Money-Laundering Act; and the regulations and directives of the Central Bank of Algeria, the Commission for the Organization and Supervision of Stock Exchange Operations and other supervisory authorities, including those responsible for banks, the postal service, insurance companies and non-financial businesses and professions.

To comply with anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions must put in place internal anti-money-laundering systems that cover the identification of clients and beneficial owners, the ongoing monitoring of transactions, the application of enhanced due diligence to high risk clients, accounts and transactions, record-keeping and the reporting of suspicious transactions (see discussion under art. 52 below).

The Anti-Money-Laundering Act and the Central Bank guidelines on wire transfers of 23 December 2015 adequately cover the obligations of banks and other entities when executing wire transfers. These guidelines require financial institutions to ensure that wire transfers to and from abroad that exceed the value of \$1,000, €1,000 or the equivalent in another currency are accompanied by information on the originator and the beneficiary.

The anti-money-laundering supervisory authorities are the Currency and Credit Council, the Banking Commission, the Commission for the Organization and Supervision of Stock Exchange Operations, the Insurance Supervision Commission, the National Bar Association and the National Chamber of Notaries. Entities that are not subject to supervision by the Banking Commission, including non-financial businesses and professions, are not adequately supervised for anti-money-laundering purposes.

The national money-laundering risk assessment exercise is in the process of being set up. A decision is being prepared on the establishment of a high-level risk assessment committee.

The Financial Intelligence Unit was established in 2002 and became operational in 2004. It receives and analyses reports of suspicious activity and transmits the results of its analysis to the public prosecutor. The Unit joined the Egmont Group in 2013.

Anti-money-laundering supervisory and law enforcement authorities cooperate and exchange information domestically and internationally. Algeria and France have seconded liaison magistrates to facilitate mutual legal assistance between the two countries.

Algeria has adopted a system for the declaration, upon entering or leaving the country, of cash and bearer securities with a value equal to or greater than €5,000 or the equivalent in another currency (Bank of Algeria Regulation No. 16-02 of 21 April 2016 and article 119 of the Finance Act of 2020). Article 119 of the Finance Act of 2020 applies only to foreign travellers and currencies, given that the sending of currency is prohibited.

In cases of non-declaration or false declaration, only the penalties established for violations of the laws and regulations on foreign exchange transactions and capital movements (article 1 bis of Order No. 10-03 of 2010 of the Minister of Finance, amending Order No. 96-22 of 1996) are applicable.

The follow-up reports submitted to the Middle East and North Africa Financial Action Task Force show that Algeria has closed many of the gaps identified in the 2010 mutual evaluation report, including those related to prevention and supervision measures.

Algeria actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, particularly through its participation in the Middle East and North Africa Financial Action Task Force and the Egmont Group.

2.2. Successes and good practices

- The preparation by the ONPLC of an inventory of public positions considered particularly vulnerable to corruption (art. 7).
- The implementation of targeted training modules for future managers and leaders on preventing corruption and identifying the most common modalities of corruption (art. 7).
- The development and implementation in 2017, by the Court of Auditors, of a methodological guide to assess transparency and accountability in budgetary management (art. 9).
- The priority given by the national authorities to the development and implementation of online services, including for public procurement, as a means of streamlining administrative procedures, enhancing service delivery and reducing opportunities for corruption (art. 10).
- The active contribution of Algeria to the development and strengthening of regional and international cooperation in the fight against money-laundering, particularly through its participation in the Middle East and North Africa Financial Action Task Force and the Egmont Group and through the secondment of liaison magistrates (art. 14).

2.3. Challenges in implementation

It is recommended that Algeria:

- Continue to take steps to complete and adopt the new national anti-corruption strategy for the period 2020–2024, including its comprehensive monitoring, evaluation and oversight mechanism (art. 5).
- Continue to take steps to establish appropriate selection procedures and training in respect of public positions considered particularly vulnerable to corruption, following the inventory of such positions (art. 7).
- Consider taking steps to enhance the identification and transparency of donors who provide funding to election candidates and political parties (art. 7).
- Continue to take steps to develop and adopt a national code of ethics for civil servants (art. 8).
- Consider putting in place measures and systems to enable public officials to report acts of corruption to the competent authorities, should they become aware of such acts in the performance of their duties, including measures to ensure that they are adequately protected against retaliation (art. 8).
- Continue to take the necessary steps to finalize and implement the electronic public procurement system in order to strengthen transparency, competition and objective criteria in decision-making (art. 9).

- Continue to take steps to finalize and adopt the bill on access to public information and the bill on the digitalization of public service delivery (art. 10).
- Consider taking steps to promote transparency regarding the identity of legal and natural persons involved in the establishment and management of private entities (i.e., beneficial owners) (art. 12).
- Expressly disallow the tax deductibility of expenses that constitute bribes (art. 12, para. 4).
- Consider taking appropriate steps to promote public participation in decision-making processes, including during the adoption of the national budget (arts. 9 and 13).
- Continue to take steps to finalize and adopt the bill on participatory democracy, local governance and citizen participation (art. 13).
- Take the necessary measures to adequately supervise all reporting entities for anti-money-laundering purposes, particularly those that are not subject to supervision by the Banking Commission (art. 14, para. 1 (a)).
- Algeria is encouraged to continue its efforts to finalize and implement its national risk assessment (art. 14, para. 1 (a)).
- Algeria is encouraged to review and strengthen the implementation of the declaration system in accordance with article 14, paragraph 2 of the Convention.

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

An entire chapter of the Anti-Corruption Act (title V, arts. 57–70) is devoted to international cooperation and asset recovery, to a large extent reproducing the provisions of chapter V of the Convention.

The Anti-Corruption Act, the Code of Criminal Procedure and the Anti-Money-Laundering Act provide for mutual legal assistance subject to reciprocity. In addition, Algeria is a party to certain bilateral agreements which provide for the widest measure of mutual legal assistance.

The Ministry of Justice is the central authority for mutual legal assistance. In the absence of a bilateral agreement providing to the contrary, requests are sent through diplomatic channels and the Ministry of Justice forwards them to the competent judicial authorities.

A bill has been drafted on the establishment of a specialized asset recovery agency.

Algeria is able to cooperate in asset recovery irrespective of the existence of a treaty. The same set of measures and procedures that are used in national criminal proceedings, including those relating to detection, freezing, seizure and confiscation of property, are available in the context of such cooperation. In the absence of a relevant agreement, Algeria applies the provisions of the Convention directly.

Algeria does not make mutual legal assistance conditional on the existence of a treaty. Nevertheless, it has sent a request relating to asset recovery using the Convention as a legal basis. Algeria has never refused a request relating to asset recovery and has never received a request for the return of assets.

Article 69 of the Anti-Corruption Act explicitly provides for the spontaneous exchange of information. The Financial Intelligence Unit has signed 21 memorandums of understanding on cooperation, including the spontaneous exchange of information, with its foreign counterparts. The Riyadh Arab Agreement on Judicial Cooperation and other treaties to which Algeria is a party contain

provisions on special cooperation. The authorities also spontaneously exchange information through the Egmont Group and INTERPOL.

Algeria has concluded numerous bilateral and multilateral international cooperation agreements on crime control and the tracing of criminals and criminal proceeds. Duly ratified treaties have higher authority than national laws (art. 150 of the Constitution).

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Financial institutions and non-financial businesses and professions are subject to anti-money-laundering obligations under the Anti-Money-Laundering Act and the Financial Intelligence Unit guidelines of 23 April 2015 on customer due diligence measures for insurance companies, securities brokers and other reporting entities, including non-financial businesses and professions that are not subject to supervision by the Bank of Algeria. These provisions envisage the application of due diligence measures (guidelines and arts. 7–10 bis 4 of the Anti-Money-Laundering Act) including client and beneficial owner identification, ongoing monitoring of transactions, periodic and continual updating of data, record-keeping (for five years, see art. 14 of the Anti-Money-Laundering Act) and reporting of suspicious transactions to the Financial Intelligence Unit (arts. 19–20 of the Anti-Money-Laundering Act). They also require assessment of the risks of money-laundering, the implementation of appropriate measures to manage such risks, and the application of enhanced due diligence to high risk clients, accounts and transactions, including accounts belonging to foreign politically exposed persons. These measures do not specifically cover local politically exposed persons or their family members or close associates.

Appropriate sanctions for non-compliance are set forth under articles 32 to 34 of the Anti-Money-Laundering Act.

The Bank of Algeria issued guidelines on 8 February 2015 on customer due diligence measures for banks and financial institutions. These guidelines provide detailed instructions on money-laundering risk management systems, including on the persons, accounts and transactions that must be given particular attention.

Bank licensing procedures and the Anti-Corruption Act (art. 59) prohibit the establishment of shell banks. Bank of Algeria Regulation No. 12-03 of 2012 prohibits banks from having correspondence relations with shell banks or with banks that provide correspondence services to shell banks (art. 9).

The Anti-Corruption Act requires all public officials to disclose their assets, held in Algeria or abroad, and those of their minor children, at the beginning and end of their service and whenever a substantial change occurs (arts. 4–6). In practice, only senior officials (approximately 6,000) are invited to file such declarations. With the exception of judges, who are required to declare their assets to the Supreme Court every five years, the Act does not provide for regular reporting, nor does it define what is meant by a “substantial change”. Algeria plans to extend the scope of asset declarations to cover spouses.

A presidential decree regulates the procedures for filing declarations. Asset declarations are reviewed by one of two bodies, the Supreme Court or the ONPLC, depending on the persons submitting them. The declarations of elected officials, senior civil servants holding State posts or offices and civil servants covered by the Order of 2 April 2007, as amended by the Order of 16 January 2017 establishing the list of public officials required to file a declaration of assets, are forwarded to the ONPLC for examination by the Division for the Processing of Asset Declarations.

The manual nature of the financial disclosure system makes it difficult to effectively conduct monitoring and review. Algeria has taken steps to develop an online disclosure platform.

Article 35 of the Anti-Corruption Act lays down criminal penalties (imprisonment and/or fines) for those who fail to declare their assets or who provide inaccurate information. To date, no penalties have been imposed for non-compliance with disclosure obligations.

The Act does not preclude the possibility of sharing relevant information with foreign competent authorities following a request for mutual legal assistance.

Article 61 of the Act requires public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to the appropriate authorities. However, the Act does not define or designate appropriate authorities and article 61 is not applied in practice.

Established in 2002 and operational since 2004, the Financial Intelligence Unit is an independent administrative authority with legal personality and financial autonomy under the authority of the Minister of Finance (article 4 bis of the Anti-Money-Laundering Act). It lacks the human, financial and technical resources to effectively perform its work.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Article 62 of the Anti-Corruption Act establishes the jurisdiction of the Algerian courts to hear civil actions brought by States parties to the Convention with a view to obtaining recognition of their right of ownership over property acquired as a result of acts of corruption. This article also provides that the court hearing the case may order a person convicted of corruption to pay civil compensation to the plaintiff. Furthermore, the Civil Code (art. 124) and the Code of Criminal Procedure (arts. 2–5 bis) allow individuals to claim damages as a result of unlawful acts committed by others, including acts of corruption. These provisions also apply to foreign States, which may bring a main civil action in the civil courts or an auxiliary civil action in the criminal courts.

Article 62 also requires the courts, when ruling on confiscation orders, to preserve the legitimate property rights of other States parties.

Article 63, paragraph 1, permits the enforcement of confiscation orders issued by foreign courts.

Algerian legislation provides for confiscation without a criminal conviction only in exceptional cases, such as cases of money-laundering (Anti-Corruption Act, art. 63, para. 3). Under article 63, paragraph 2, of the Act, when ruling on money-laundering or other offences within their jurisdiction, the courts may order the confiscation of property of foreign origin acquired by means of an offence defined in the Act, or used for the commission of such an offence (art. 4 of the Anti-Money-Laundering Act in conjunction with article 389 bis 4 of the Criminal Code).

The confiscation of such property is ordered even in the absence of a criminal conviction due to the discontinuance of proceedings or for any other reason.

Article 63, paragraph 1, applies to confiscation orders both with and without a criminal conviction. Requests must be submitted by way of mutual legal assistance.

Under article 64 of the Act, Algerian courts and competent authorities may freeze or seize property upon an order issued by a court or competent authority of a requesting State party to the Convention. The same article allows the Algerian courts to take similar measures to preserve property with a view to its confiscation, for example on the basis of an arrest made or a criminal charge filed in a foreign jurisdiction.

The competent Algerian authorities may also freeze or seize property at the request of a foreign court or competent authority on the basis of article 51 of the Act, when the same set of measures and procedures that are used in domestic criminal proceedings are available in the context of mutual legal assistance.

Article 66 of the Act specifies the documents and information that requests for mutual legal assistance must contain for a confiscation order to be granted or enforced.

Requests must be addressed directly to the Ministry of Justice, which forwards them to the public prosecutor, who in turn submits the request to the competent court. The court's decision is subject to appeal, in accordance with the law (art. 67 of the Anti-Corruption Act).

Cooperation for the purposes of confiscation may be refused or provisional measures lifted if the requesting State does not provide sufficient and timely evidence or if the property is of a *de minimis* value. However, before any provisional measure is lifted, the requesting State may be invited to present its reasons in favour of continuing the measure (art. 65 of the Anti-Corruption Act).

Return and disposal of assets (art. 57)

The general principle applied under the Criminal Code is that confiscated property is transferred to the public treasury (art. 15), without prejudice to the rights of bona fide third parties (art. 15 bis 1), including legitimate owners (art. 15 bis 2).

Although the law does not explicitly provide for the return of confiscated funds, article 51 of the Anti-Corruption Act provides that in the event of a conviction for corruption, the court will order the confiscation of property, without prejudice to its return and the rights of bona fide third parties. Moreover, article 70 provides that the disposal of confiscated property will be in accordance with the relevant treaties and legislation in force, including the Convention, which is directly applicable by the Algerian courts (Constitution, art. 150).

To date there have been no cases in which Algeria has been requested to return assets. In the event that a decision to return assets is taken, Algeria will return them without deductions, except in exceptional cases to cover reasonable expenses, as provided for in the applicable agreements.

Although Algeria has not yet concluded any agreements on the disposal of assets, there are no legal obstacles to prevent it from doing so, if necessary, on a case-by-case basis.

Algeria does not impose any conditions on the return of assets.

Algerian law also allows for the compensation of victims of crime (art. 62 of the Anti-Corruption Act, art. 124 of the Civil Code and arts. 2–5 bis of the Code of Criminal Procedure).

3.2. Successes and good practices

- An entire chapter of the Anti-Corruption Act (title V, arts. 57–70) is devoted to international cooperation and asset recovery, to a large extent reflecting the provisions of chapter V of the Convention (art. 51).

3.3. Challenges in implementation

It is recommended that Algeria:

- Continue its efforts to adopt legislation on the establishment of a specialized asset recovery agency and to develop a case management system for international cooperation requests (art. 51).
- Extend the scope of increased supervision to the accounts of local politically exposed persons and the accounts of family members and close associates of local and foreign politically exposed persons (art. 52, para. 1).
- Consider revising its legal and executive framework on asset declaration such that it: (1) applies only to the appropriate officials, according to their seniority and the risk of corruption; (2) applies to their spouses; (3) establishes the obligation to declare on a regular basis; (4) defines what is meant by a

“substantial change”; and (5) improves the process of verifying declarations. Algeria is encouraged to finalize and operationalize the online disclosure platform (art. 52, para. 5).

- Consider defining or designating “appropriate authorities” to receive disclosures concerning foreign accounts and taking steps to apply article 61 of the Anti-Corruption Act in practice (art. 52, para. 6).
- Enact legislation providing for the return of confiscated property, including to its prior legitimate owners, in accordance with article 57, paragraph 3 (art. 57, para. 1).
- Provide the Financial Intelligence Unit with sufficient human, financial and technical resources to effectively perform its work (art. 58).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building in international cooperation on criminal matters and in asset recovery (art. 51).
 - Training of trainers (art. 51).
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