

## Manifestations of Administrative Corruption Related to Appointments in Public Employment

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**Abstract---**Administrative corruption is arguably one of the most dangerous types of corruption as it paralyses the administration, rendering it incapable of fulfilling its required tasks. The harmful and destructive negative effects resulting from this issue are serious, and it is therefore a plague that undermines the fabric of society, hinders development programmes, and disrupts the principles of justice, integrity, and equality. Administrative corruption is often considered merely a deviation from standards, representing a failure to uphold the values of community commitment and respect for public service obligations. Thus, it constitutes a misuse of a public position for private gain. This study aims to explain, analyse and diagnose the phenomenon of administrative corruption within public employment, identifying the various gaps and imbalances affecting the appointment system. These are considered to be both manifestations of and causes of administrative corruption in Algeria. The primary objective of this study is to prevent administrative corruption, thereby promoting integrity and transparency in transactions and combatting corruption in general.

**Keywords---**administrative corruption, public employment, anti-corruption, manifestations of corruption, equality, efficiency, bribery.

### Introduction

Corruption<sup>1</sup> is an ancient phenomenon experienced by humanity throughout history. It has been a fundamental factor in the collapse of most systems and civilisations. It has also been a catalyst for

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<sup>1</sup> There is no specific definition of corruption in the sense that this term is used today, but there are different perspectives that agree that corruption is the abuse of public power or public office for private gain. Corruption typically occurs when an employee accepts or solicits a bribe to facilitate a contract or process for a public tender.

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### How to Cite:

Arous, H., & Djamel, A. (2025). Manifestations of administrative corruption related to appointments in public employment. *The International Tax Journal*, 52(5), 1923–1931. Retrieved from <https://internationaltaxjournal.online/index.php/itj/article/view/207>

The International tax journal ISSN: 0097-7314 E-ISSN: 3066-2370 © 2025

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Submitted: 13 January 2025 | Revised: 27 June 2025 | Accepted: 15 September 2025

various revolutions and uprisings in both ancient and modern times. Although corruption is a global phenomenon that does not pertain to any specific society or country, it spreads in various forms and methods and to varying degrees depending on differences between societies and nations, particularly with regard to their prevailing systems (political, economic, social, administrative, etc.).

Like many other countries, Algeria is witnessing this phenomenon and suffering from its devastating effects, which threaten to destroy everything in all fields and at all levels. This is despite efforts to find effective means to combat and limit it. One of the most significant types of corruption Algeria has experienced recently is administrative corruption, which is considered one of the most dangerous forms due to its impact on the administration. This is manifested through the range of gaps and violations it causes, ultimately affecting all levels and classes within society.

However, it is well known that it is impossible to identify all the details of administrative corruption and its issues with absolute clarity and precision. Nevertheless, it is possible to trace its effects and gain an understanding of some of its aspects by referring to its manifestations. Administrative corruption is characterised by its multifaceted nature, given the various forms it takes, which have begun to transcend the boundaries of individual states and have become a global phenomenon. This is especially true given ongoing technological advancements, which have led to significant negative impacts, including the evolution of methods and means of administrative corruption.

The Algerian state has recently suffered from various forms of corruption affecting various administrations, institutions and sectors, including corruption in public employment. This sector is responsible for providing services to citizens and meeting their diverse needs for the benefit of society as a whole.

Furthermore, public employment<sup>2</sup> plays a vital role in managing economic and social development in modern states. It reflects the success of contemporary governments' policies and regulations in various fields. A state's level of advancement is determined by the quality of its public employees in terms of their mindset, behaviour, awareness and sense of responsibility.

However, there has recently been significant deterioration in the realm of public employment in Algeria, resulting from imbalances and a lack of adherence to the standards and criteria that underpin public employment, particularly with regard to hiring conditions and principles. These standards and criteria are enshrined in the constitution; however, it has become evident that public positions are increasingly being filled through illegitimate means, driven by the prevalence of favouritism and nepotism. This has led to the commodification of public employment. This issue is considered one of the main manifestations of administrative corruption in Algeria and affects a very sensitive sector on which other sectors depend.

The spread of corruption in Algeria's public employment sector has led to a deterioration in the state's adherence to constitutional and legal principles when hiring. This situation has impacted a large part of

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Corruption can also occur without resorting to bribery by exploiting public office through nepotism or directly stealing state funds. — See Yasser Khalid Barakat Al-Waeli, "Administrative Corruption: Its Concept and Causes," an article published on the State Information Network, Al-Nabaa Magazine, No. 80/2006, [www.annabaa.org](http://www.annabaa.org), accessed on 01/11/2019.

<sup>2</sup> From an organic perspective, public office is defined as "a group of public administration agents that includes various categories subject to public rather than private law". From a substantive perspective, it is 'an activity of an original nature, distinct from other activities in different sectors, performed continuously and professionally by public agents in service to public administrative entities, including the state, local groups and every administrative institution and body'. — See Said Muqaddim, 'Public Office Between Development and Transformation from the Perspective of Human Resources Distinction and Professional Ethics', University Publications Bureau, Algeria, 2010, pp. 46–47.

society, particularly those with qualifications and skills, prompting us to address this issue by posing the following question:

How does administrative corruption manifest itself in the field of public employment appointments?

To answer this question, we have organised our study as follows:

- The first axis is violations of procedures and formal conditions in employment.

First: Violations of methods and procedures for selecting employees

Second: Non-compliance with general employment conditions.

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Third: Failure to announce and advertise vacant positions.

- Second axis: failure to respect general standards and principles in employment.

First: Failure to respect the principle of equality in access to public employment

Second: non-compliance with the principle of merit and competence in employment.

### **First axis: violations of procedures and formal conditions in employment.**

Employment is considered one of the most crucial management activities, as its effectiveness significantly impacts the administrative function. This process can have a positive or negative influence on the administration's ability to act. Therefore, it is essential to avoid any factors that may lead to rejection by various stakeholders and expose the administration to negative consequences throughout an individual's professional life<sup>3</sup>.

Based on these considerations, it is necessary to identify the various cases of violations of procedures and formal conditions in the employment process in this axis, as outlined below.

#### **First: Violations of the Methods and Procedures for Selecting Employees.**

The administration aims to select the most suitable candidates for public positions. The methods used to select employees vary depending on the economic, social and political conditions in which the administration operates. While all candidates may meet the general requirements for the position, the limited number of available positions means that the administration must consider methods and criteria for selecting the most capable and deserving candidates.

The most significant methods employed by the Algerian administration in selecting its employees, as stipulated by the Public Service Law<sup>4</sup>, are the following four approaches:

- Competitions based on examinations
- Competitions based on certificates for certain categories of employees
- Professional examinations
- Direct employment from among candidates who have completed specialised training as specified by the Basic Laws of Qualified Training Institutions<sup>5</sup>.

The administration or public institution can use the above methods to distribute groups of candidates for employment, either through certificate-based competitions<sup>6</sup> or examinations. Once this has been determined, the administration must inform the General Directorate of Public Employment.

<sup>3</sup> See also Ali Al-Arnan Mouloud, 'Theoretical Foundations of Public Office and the Development of Its Applications in the Algerian Public Employment System', PhD thesis in Political Institutions and Algerian Administration, Faculty of Law, Constantine 1 University, 2012-13, p. 248.

<sup>4</sup> See also Article 80 of Ordinance No. 06-03, dated 19 Jumada al-Thani 1427 (15 July 2006) regarding the general basic law of public employment (Official Gazette No. 46, 16 July 2006).

<sup>5</sup> Ashour, Dahman Zbiha, 'Explanation of the General Basic Law of Public Employment, Provisions of Ordinance 06/03', Dar Al-Huda, Algeria, 2010, p. 30.

<sup>6</sup> In certificate-based competitions, candidates for the relevant position are interviewed by a selection committee composed of the appointing authority as president and two members of a higher rank than the position in question. Competitions based on tests, examinations and professional assessments are executed by public institutions that provide training equivalent to at least the required qualification or certificate for the sought-after rank.

Once notified, the relevant authorities allow the administration to conduct the employment competition<sup>7</sup> by announcing it. This enables the administration to organise the competition itself, including determining the type and subject of the examinations, and to validate the results in the case of a competition based on examinations. When necessary, the administration may request assistance from the General Directorate of Public Employment or any other training institution<sup>8</sup>.

Once all procedures relating to the organisation of the competition have been completed by the administration or public institution, these actions must be approved and endorsed by the financial controller and the public employment inspector, who will review various substantive matters concerning the competition<sup>9</sup>, including the procedures followed and compliance with legal deadlines.

In conclusion, failure to adhere to the procedures and methods for selecting employees may result in individuals lacking the necessary qualifications being employed, who are unable to carry out the responsibilities of public office effectively. These procedures and methods are essential in protecting the rights of candidates for public positions from manipulation<sup>10</sup>, abuse of power and favouritism in the hiring process, which leads to the deterioration of public service. The administration must ensure equal opportunities for all candidates for public employment, regardless of discrimination<sup>11</sup>.

### **Second: non-compliance with general employment conditions.**

Given the paramount importance of public employment for individuals and the state, the professional privileges it offers and its role in enabling the state to implement its policies within society, entry into public service is governed by a set of conditions. These conditions aim to reinforce the distinctive nature of the public employment system.

Examining the provisions of Order 06-03, which encompasses the General Statute of Public Employment, reveals that Article 75 of the Algerian legislation specifies certain conditions that candidates for public positions must meet. This article states: 'No one may be employed in a public position unless they meet the following conditions:

- They must be of Algerian nationality.
- They must enjoy civil rights.
- They must not have a criminal record that is incompatible with the position they wish to occupy.
- They must be in a legal situation regarding national service.
- They must meet the age, physical and mental fitness requirements, and the qualifications necessary for the position they wish to join<sup>12</sup>.

In addition to the aforementioned conditions, Article 76 of Order 06-03 grants the public administration the option to conduct a medical examination for employment when necessary, applicable

<sup>7</sup> The competition method is defined as a process of testing a number of candidates to select the best for a specific number of positions, provided there are specific and predetermined conditions for these candidates. This method is considered the best way to organise entry into public jobs, as it enables public administration to obtain individuals with the best theoretical capabilities, allowing them to manage public facilities effectively and embodying the principle of equality or equal opportunities.

<sup>8</sup> See Instruction No. 38 dated 2 August 2008 for details of the methods for organising competitions, examinations and professional assessments related to various ranks in common services in public institutions and administrations. This instruction was issued by the General Directorate of Public Employment, the General Secretariat of the Government.

<sup>9</sup> The General Inspectorate was established by Executive Decree No. 03-191 on 28 April 2003. Affiliated with the General Directorate of Public Employment, this body is a permanent apparatus for inspection, control, auditing and evaluation under the authority of the General Director of Public Employment.

<sup>10</sup> Boudiaf, Ammar. 'The Development of the Public Employment Sector in Algeria: A Historical, Descriptive and Analytical Study', *Journal of Jurisprudence and Law*, No. 35, 2015, p. 21.

<sup>11</sup> Mohammad Youcef Al-Madawi, 'A Study of Public Employment in Comparative Systems and Algerian Legislation', University Publications Bureau, Algeria, 1984, p. 8.

<sup>12</sup> Article 75 of Ordinance 06-03 concerning the general basic law of public employment (previous reference).

to certain specific employment categories. Furthermore, Article 78 sets the minimum legal age for entering public employment at 18<sup>13</sup>.

The public administration's obligation to announce the general rules and conditions that candidates for public positions must meet enables candidates to determine whether to apply based on their qualifications and the required conditions. This saves time and money, enabling the administration to conduct a subsequent comparative assessment of candidates and ensure the optimal utilisation of the best skills and competencies. Transparency, clarity and accurate announcement of qualifications and requirements are crucial to the proper selection of public employees.

In this context, the administration must refrain from imposing unrealistic hiring conditions on specific individuals while preventing others from submitting applications for the vacant position. Such practices constitute administrative corruption in the context of public employment, particularly with regard to favouritism, nepotism, and violations of the principle of transparency. This could have a negative impact on the administration by resulting in the hiring of corrupt individuals who are incapable of fulfilling their duties and responsibilities.

Therefore, the public administration must avoid showing favouritism among candidates, even when rejecting applications. Providing reasons for rejecting a candidate's application is essential, as this curtails the influence of senior officials and guarantees the rights of remaining candidates to an opportunity of public employment, provided they meet the announced conditions. Conversely, if the administration resorts to ambiguity and secrecy and fails to provide reasons for rejecting applications, it opens the door to manipulation and corruption and to the exclusion of qualified candidates<sup>14</sup>.

### **Thirdly, failure to announce and advertise vacant positions.**

Announcing vacant positions within the public administration is a tangible manifestation of transparency in the appointment process. This plays a significant role in reinforcing the fundamental constitutional principle of equality of access to public employment<sup>15</sup>, emphasised by the Algerian legislator in Article 74 of Order 06-03, which states that 'employment is subject to the principle of equality of access to public positions'.

Furthermore, on 9 May 2007, the General Directorate of Public Employment issued circular 03 to human resources officials in public institutions and administrations. This circular emphasised the need to publicise employment competitions via technology, specifically the internet, while ensuring the continued use of traditional advertising methods, such as publication in newspapers and posting in public administrations. This was also confirmed by the joint ministerial instruction of 26 May 2008 concerning the organisation and conduct of competitions, examinations and professional tests<sup>16</sup>, and by instruction number 01 of 20 February 2013, which specified the methods for organising professional competitions and examinations<sup>17</sup>.

<sup>13</sup> Article 78 of Ordinance 06-03, same reference.

<sup>14</sup> Hadja Abdelali, 'Legal Mechanisms to Combat Administrative Corruption in Algeria', PhD thesis in Public Law, Faculty of Law and Political Science, Department of Law, Mohamed Khider University, Biskra, 2012-13, pp. 363-364.

<sup>15</sup> Article 63 of Law 16-01, dated 26 Jumada al-Awwal 1437 (6 March 2016) regarding the constitutional amendment (Official Gazette No. 14, 7 March 2016). 'All citizens are equal in holding positions and jobs in the state, subject to conditions specified by law'...

<sup>16</sup> The joint ministerial instruction, dated 26 May 2008, amends and supplements instruction No. 08, dated 16 October 2004, concerning the organisation and conduct of competitions, examinations and professional assessments. This instruction was issued by the General Directorate of Public Employment, the General Secretariat of the Government and the Presidency of the Republic of Algeria.

<sup>17</sup> Instruction No. 01, dated 20 February 2013, specifies the methods for organising professional competitions and examinations related to the implementation of Executive Decree No. 12-194, dated 25 April 2012, which specifies

However, various public administrations failed to adhere to these instructions, compelling the General Directorate of Public Employment to issue a new circular, numbered 33 and dated 25 June 2008. This circular stressed the necessity of advertising competitions on the General Directorate of Public Employment's official website. The circular linked the acceptance and approval of competitions to the completion of the advertising process, thereby effectively embodying the constitutional principle of equal access to public employment. This was further affirmed by Executive Decree 12-194, specifically in Article 12, which states: 'Competitions and professional examinations for various categories and ranks of employees must be publicised within a maximum period of seven working days from the date of obtaining a compliance opinion...'

The above regulatory texts make it clear that the administration is obliged to follow the stipulated guidelines. In practice, however, this is not always the case. Many public administrations obscure and lack clarity when announcing vacant positions, resorting to nominal advertising which serves as a façade for appointing specific individuals. This opens the door to various forms of administrative corruption, including favouritism, bias and nepotism, which stem from a failure to respect the principles of transparency and equality in the hiring process by complicating or concealing it.

Dr Ibrahim Ali Badawi Al-Sheikh stated that the state complaints system fundamentally involves one state submitting a complaint against another, alleging that the latter has violated human rights that it is obliged to respect. The complaint is submitted to the relevant authority designated in the document stipulating the commitment to respect the aforementioned rights.

This process aims to prevent and halt violations and breaches affecting any of the rights enshrined in international human rights agreements, providing necessary protection for the rights and freedoms outlined in these agreements and ensuring their implementation in practice.

#### **Firstly: Failure to respect the principle of equality in access to public employment**

This principle serves as the overarching framework governing access to public service<sup>18</sup>. It is a fundamental element in the organisation of rights and public freedoms, and is closely linked to the principles of liberty and justice. The latter can only be realised in the presence of equality among citizens. Furthermore, freedom cannot exist without equality.

Examining various Algerian constitutions reveals that they affirm the principle of equality among citizens as the basis for the relationship between the administration and the public. Consequently, this principle has been incorporated into the rules governing access to public employment, with various public service-related laws explicitly enshrining and stipulating the principle of equality in entering public positions<sup>19</sup>.

Any violation or form of administrative deviation affecting hiring processes represents a departure from the principle of equality and its requirements, as well as an expansion of the exceptions to this principle. Such actions can be considered manifestations of administrative corruption and functional deviation. The public administration must keep the door to employment open for all citizens, regardless of race, language, religion or gender. In other words, the administration should refrain from any actions that contradict the spirit of the equality principle, which, as previously mentioned, forms the foundation of public service. One of the most significant violations of this principle is summarised in Article 32 of the

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the methods for organising and conducting competitions, examinations and professional assessments in public institutions and administrations (Official Gazette No. 26, dated 3 May 2012).

<sup>18</sup> The concept of equality has two meanings. The first is legal equality, which requires no preference or favouritism in the appointment of public officials, provided that all legal requirements and qualifications are met by the applicants. The second meaning refers to actual equality, which involves providing employment opportunities to all citizens.

<sup>19</sup> See Article 74 of Ordinance 06-03 for more information.

2016 Algerian Constitution, which states: 'All citizens are equal before the law'<sup>20</sup>, and no one may invoke any discrimination based on birth, race, opinion, or any other personal or social condition.<sup>21</sup> From this article, we can identify cases of violation of the principle of equality in employment:

- Discrimination against candidates for public positions on the basis of religion or ethnicity.
- Discrimination between candidates for public positions based on political considerations is also illegal.
- Discrimination between candidates for public positions based on gender is also illegitimate.

**Secondly, there has been non-compliance with the principle of merit and competence in employment.**

Given the importance of merit and competence as the basis for hiring in most modern administrations, this principle is crucial for improving their administrative bodies, particularly in the context of political favouritism and nepotism, which have led to corruption. This principle ensures that the most suitable candidates are selected for public positions and that public administration affairs are managed effectively. It is as important as the principle of equality, as it makes suitability, competence and qualifications the foundation for selecting the most appropriate employee.

However, we observe from the constitutional texts that the Algerian constitutional framework does not explicitly mention this principle. However, it has been enshrined in various stages of the laws governing public employment. Public administration must therefore adopt it as a fundamental criterion to which the appointing authority must adhere when filling public positions, as it confirms the candidate's ability and suitability for the public role. In practice, applying this principle inevitably creates equal opportunities, ensuring that public employment is a right for the qualified, regardless of lineage, origin or personal connections.

Therefore, the administration must commit to providing equal opportunities to all applicants for public positions, and must not discriminate or introduce unacceptable and illegitimate considerations that contravene the hiring process procedures. The competition system is one of the essential guarantees that embody the principles of merit and competence. If the public administration abandons or violates this system, it is an injustice and discriminates against candidates for public positions. Ultimately, this leads to a loss of trust in the administrative and political systems of the state among citizens.

The principle of merit is characterised by several features, including:

- Limiting employment and appointments to capable individuals.
- The assessment of candidates' suitability is entrusted to an impartial and independent committee.
- Selecting employees through examinations and competitions.

It can therefore be concluded that if the aforementioned principles are overlooked in hiring processes, and if employees are selected on illegitimate grounds such as nepotism, favouritism and connections, this constitutes a significant flaw and danger. This is one of the most significant forms of administrative corruption, undermining the integrity of public service in Algeria and other countries.

## **Conclusion**

In conclusion, our study of administrative corruption in public employment reveals that this phenomenon has become widespread in both substantive and procedural terms. This is evidenced by violations committed by the administration and public institutions regarding certain principles and conditions, and by their failure to respect legal procedures in the hiring process. Such actions inevitably

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<sup>20</sup> Equality before the law means applying it to all individuals without discrimination; they are all equal before the law, and the law treats them all equally. See Muhammad Ali Al-Salem Ayad Al-Halabi, *The Principle of Equality in Islamic Law and Positive Law*, 1st edition, International Scientific Publishing and Distribution House, Amman, 2002, p. 160.

<sup>21</sup>- See also Article 32 of the 2016 Constitution.

lead to the exclusion of a large number of qualified individuals and degree holders whose skills could be utilised effectively in appropriate positions.

However, the pervasive nature of corruption hinders the implementation of proper employment practices. The causes and motivations behind this phenomenon are intertwined and complex, making it difficult to practically separate them. Nevertheless, this study identifies internal reasons relating to the employment sector, such as personal motivations and a lack of religious and ideological commitment, as well as external factors concerning the environment surrounding public administration and its personnel, including administrative and legal causes.

Furthermore, we have observed that administrative corruption in public employment has numerous negative and destructive effects across various sectors. The most significant forms of administrative deviation relating to appointments to public positions include violations of procedures and formal conditions for selecting employees, such as failing to advertise vacant positions and a lack of clarity and transparency in announcements.

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