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Integration Areas Between Constitutional Oversight Institutions for Investigating the Use and Management of Public Funds

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Abstract---Constitutional oversight institutions, such as the Audit Council and High Authority for Transparency and Prevention and Combating of Corruption, are responsible for monitoring state funds, regional collectives, and public services. Article 184 of the 2020 constitutional amendment establishes areas for their integration to enhance their effectiveness in corruption prevention and combating. These bodies' functions extend beyond their possession of resources and legislative and regulatory tools, addressing financial and administrative corruption. Based on the above, this research paper aims to highlight the integration areas that enhance the role of the Audit Council and the High Authority for Transparency and the Prevention and Combating of Corruption. This integration is seen as a crucial mechanism that contributes to the activation of the legislative and regulatory framework for sound governance and the rationalization of public spending.

Keywords---Audit Council, High Authority for Transparency, Financial Corruption, Administrative Corruption, Oversight.

I- Introduction:

The implementation of public expenditures remains a breeding ground for financial and administrative corruption, which negatively impacts the national economy and the social state of the nation. In alignment with the preamble of the 2020 constitutional amendment, the Algerian constitutional founder has committed to combating and preventing corruption in accordance with international conventions ratified by Algeria. This has led to the strengthening of oversight mechanisms of institutions responsible

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for the scrutiny of public fund usage and management. These institutions, specifically the Audit Council and the High Authority for Transparency and the Prevention of Corruption, work together to ensure that public expenditures are effectively aligned with national and local development programs.

These bodies coordinate their activities with other relevant entities to prevent and combat corruption, including grassroots levels through specialized administrative staff. This constitutional approach meets the necessity for robust oversight mechanisms over public spending by independent and supreme bodies, reflecting the evolution of the state's role, the diversity of its expenditures, and the essential need for oversight to achieve outlined development goals. The insufficiency of existing political and administrative oversight tools, occasionally ineffective, prompted the constitutional founder to establish more than just the role of the Audit Council. This led to the creation of a new constitutional entity, the High Authority for Transparency and Prevention of Corruption, with extensive powers for oversight. This paper discusses the integration of these constitutional oversight bodies in managing public funds, aiming to underline their role in enhancing governance, optimizing public expenditures, and implementing sustainable development plans at both national and local levels.

Through examining various constitutional and legislative aspects, and to address the methodological and objective requirements of the study, we find that it largely revolves around answering the following question: What are the powers granted to constitutional institutions for overseeing the use and management of public funds, and where do the areas of integration among them lie?

To address this question, a plan divided into two sections was adopted. The first section is dedicated to reviewing the powers entrusted to the institutions discussed in the research paper in the area of corruption prevention and combating, through an analysis of the constitutional and legislative framework that defines these powers. The second section explores the extent of integration between these institutions to determine how much this contributes to activating the powers granted to them.

II– Powers of Constitutional Institutions Overseeing Public Funds

The integration areas between the Audit Council, as an independent supreme constitutional institution for post-audit of public funds, and the High Authority for Transparency and Prevention of Corruption, which is a constitutional institution with multiple roles in investigating the use and management of public funds, become clear through a review of the constitutional and legislative powers entrusted to both institutions, which are detailed as follows:

II .1. Powers of the Audit Council in overseeing public funds:

The Audit Council is an independent supreme institution specialized in the post-audit of state funds, regional collectives, and public services, also contributing to the promotion of good governance and transparency in the management of public funds and the submission of accounts, as per Article 199 of the 2020 constitutional amendment. The Algerian legislator defines it as a national independent body for financial oversight post-facto, operating under a mandate from the state, as stipulated in the constitution (Law 90-32, 1990), and it is also defined as the supreme institution for post-audit of state funds, regional collectives, and public services (Order 95-20 , 1995). According to the aforementioned Article 199, an organic law regulates the organization, operation, and competencies of the Audit Council, enabling it to audit the conditions of resource and public fund use by the entities under its jurisdiction (Azza, 2012, p. 154). The post-audit oversight by the Audit Council, as stipulated in Article 03 of Order 95-20, takes two forms, administrative and judicial, which are manifested through their subjects and methods (Ktibat, 2020, p. 543), which we detail below:

II .1.1. Administrative Powers of the Audit Council:

The administrative powers of the Audit Council in Algeria, according to Law 90-32 dated December 4, 1990, related to the operation of the Audit Council, amended and supplemented by Order 95-20 dated

July 17, 1995, concerning the Audit Council, amended and supplemented by Law 10-02 dated August 26, 2010, are primarily based on post-audit oversight of management quality, examining its effectiveness and efficiency through measurement operations that assess compliance with standards between outlined objectives and achieved results, and the adequacy of the means used in managing public funds towards those objectives (Articles 70 and 71 , 1995). This involves the Council evaluating the conditions under which the entities it oversees use and manage material resources and public funds, in addition to assessing levels of effectiveness, efficiency, and economy in their expenditure, referring back to the missions, objectives, and means employed. Moreover, within its administrative powers, the Audit Council plays a consultative role by contributing its technical opinions on matters under its oversight, especially concerning actions, plans, and developmental programs, as well as measures with economic and financial dimensions, aimed at achieving public interest by various bodies and administrative authorities. The Audit Council has developed internal oversight tools to enhance its advisory role and make it more effective, represented in "the methodological guide related to the preparation of the evaluative report for the preliminary draft of the budget settlement law for the purpose of framing control standards for each financial year (Khadija, 2019, p. 1338)".

II .1.2. Judicial Powers of the Audit Council:

In addition to its administrative powers, the Audit Council possesses judicial powers that include oversight of accounts submitted by public accountants and ensuring compliance with discipline and procedures in budget and financial management. These powers or competencies are briefly explained as follows:

A. Authority of the Audit Council in the area of auditing accounts submitted by public accountants:

According to Article 06, Paragraph 02 of Order 95-20, as amended and supplemented, the Audit Council is empowered to control and review accounts presented by public accountants, defined in Article 15 of Law 23-07 dated June 21, 2023, on the rules of public accounting and management as: "A public accountant in the sense of this law is any public official appointed or accredited to perform the operations mentioned in Article 24 of this law." They are appointed according to Article 16 of the same law by the Minister of Finance and are exclusively under his authority.

The jurisdiction of the Audit Council in this area encompasses the control and review of all accounting operations that fall under the jurisdiction of the public accountant and the actual accountant. Article 17 of Law 23-07 states: "An actual accountant, in the sense of this law, is any person who performs the operations mentioned in Article 24 of this law, without being a public accountant and without having obtained explicit permission from the competent authority." Public accountants may be either specialized accountants, commissioned accountants, principal accountants, secondary accountants, or accountants of funds and values, or concentration accountants (Article 18 of Law 23-07, 2023).

The tasks of public accountants, according to the law, include the following (Article 24 of Law 23-07, 2023):

- Collection of revenues and/or payment of expenditures,
- Custody and conservation of money, bonds, values, and objects or materials entrusted to them,
- Handling of money, bonds, values, and movement of asset accounts,
- Keeping budgetary accounting based on the cash accounting principle,
- Keeping general accounting based on the principle of recognized rights and obligations,
- Accounting registration of non-fixed values,
- Preparation of financial statements and management accounts,
- Preservation of documentary evidence and accounting documents for transactions carried out at the accounting center managed by them.

In this context, it is noted that the tasks of public accountants in the area of custody and preservation of money, bonds, values, and objects or materials entrusted to them require them to submit management accounts to the registry of the Audit Council, with all documentary evidence made available to the Audit Council whenever necessary to facilitate its duties (Order 95-20, 1995).

B. The Audit Council's jurisdiction in controlling discipline and procedures in budget and financial management:

Procedures for exercising control over discipline in budget and financial management are specified through Articles 87 and 88 of Order 95-20, as amended and supplemented. These articles delineate behaviors that constitute violations of the current rules for managing budget and finance as set forth by Organic Law 18-15 dated September 2, 2018, regarding financial laws. These behaviors can be categorized according to the following violations:

- **Violation of provisions regulating budgetary and financial management:** The Audit Council exercises what can be termed "legitimacy compliance," which, according to legal doctrine, "is the principle whereby individuals are required to subject their activities to the law in force while conducting these activities, necessitating the existence of a body that restores legality in case it is ignored or deviated from" (Azza, 2012, p. 156). Based on this, the Audit Council is an institution that oversees the compliance of procedures in budget and financial management (Article 88, 1995).
- **Causing financial losses to the state:** An example is the delay in implementing judicial decisions partially or wholly, which can lead to the state incurring punitive or financial penalties. Additionally, negligence in collecting tax-related revenues or quasi-tax revenues and any action that may increase the state's financial burdens fall under this category (Article 88, 1995).
- **Obstructing the realization of objectives set for financial appropriations:** The operations approved in the area of budget and financial management require meticulous preparatory and implementation aspects aimed at achieving pre-defined objectives. Deviations from these aspects are sometimes aimed at implementing various development programs and are considered violations punishable by law. Such violations occur, for example, when financial aids granted by the state or regional collectives are used for purposes other than those designated, or when expenditure operations contradict the objectives or missions of public bodies, and also when exceeding the limits of special budgetary permissions, etc (Article 88, 1995).

In cases where the Audit Council records any violation of these provisions, it has the authority to issue a fine not exceeding the annual gross salary of the concerned officer at the time of the violation. Further legal proceedings may be initiated against the perpetrator, including criminal penalties and civil damages when necessary. Violators are exempted if they can prove a written order from their hierarchical superiors or anyone qualified to issue such orders, shifting the responsibility to them (Article 93, 1995).

II .2. Powers of the High Authority for Transparency in overseeing public funds.

The High Authority for Transparency and Prevention of Corruption is a newly established oversight institution responsible for monitoring the management mechanisms of properties and public funds for various administrative bodies. It was created by the 2020 constitutional amendment and is the regulatory body whose operational rules were legislated by a special law (Law 22-08, 2022).

The constitutional founder granted the High Authority for Transparency and Prevention of Corruption autonomy, ensuring greater freedom in exercising its powers, as stipulated by Article 204 of the 2020 constitutional amendment. This is further emphasized in Article 02 of Law 22-08, which states that it is "an independent institution with legal personality and financial and administrative independence."

Through the provisions of the constitutional articles related to the High Authority for Transparency and Prevention of Corruption and the provisions of Law 22-08 mentioned in Chapter Two, which include the powers of the High Authority, we conclude that the constitutional founder and the Algerian legislator have endowed it with numerous and unique powers. These powers allow it to coordinate and integrate with various institutions and bodies involved in corruption prevention and combat, aiding it in strengthening the capabilities of all other actors in the field of corruption combat. The authority is tasked with monitoring and implementing transparency culture, providing opinions on legal texts related to its field of expertise. These powers, which will be discussed further in the second axis of this research paper, highlight the provisions of integration between it and the Audit Council, the subject of this research paper.

II .2.1. Powers of the High Authority in Promoting Transparency and Preventing and Combating Corruption:

In recent years, Algeria has sought to establish and adopt mechanisms to enforce transparency in the management of public properties and funds, prevent corruption, and promote ethical conduct in public life. In this context, the legislator has established principles of transparency that need to be entrenched and provided tools for their implementation, granting the High Authority an effective role in achieving these goals (Amiri, 2021, p. 70).

Article 205 of the 2020 constitutional amendment refers to the necessity of legislating the powers of the Authority in promoting transparency and preventing and combating corruption, which was organized under Article 04 of Law 22-08. A review of these constitutional and legislative articles leads to the conclusion that they encompass a series of tasks entrusted to the High Authority in promoting transparency and preventing and combating corruption (Laaraba, 2022, p. 680), which can be outlined as follows:

- Collecting, centralizing, processing, and utilizing information related to corruption activities to combat, prevent, and aid in their detection, and the possibility of publishing information and recommendations and sharing them with public administrations to improve administrative procedures and enhance the relationship between the citizen and the administration.
- The High Authority works on establishing means of cooperation and information exchange with regional and international organizations and bodies specializing in the prevention and combating of corruption, particularly civil society, which acts as a link between citizens and government bodies, working to unify and promote their efforts through interactive networks that help fight and prevent corruption.
- Contributing to reinforcing the principles of transparency, good governance, prevention of corruption, and promoting ethical conduct in public and administrative life.
- Training agents of the devices under the High Authority for Transparency and Prevention of Corruption in the areas of corruption prevention and combating.
- Periodically evaluating the mechanisms and legal tools adopted to combat and prevent corruption and their ability to enhance transparency in the management of public properties, along with assessing the effectiveness of administrative measures in this area and suggesting appropriate mechanisms for their development.
- Receiving, processing, and monitoring property declarations.
- Preparing an annual report on its activities directed to the President of the Republic, and the public is informed about the contents of the report.

From the powers and tasks outlined above, it is clear that the High Authority for Transparency and Prevention possesses both a preventive and advisory role. The legislator has assigned it multiple powers aimed at preventing corruption incidents and enabling the Authority to provide consultations and play an awareness-raising and educational role for citizens and authorities about the risks and harms of corruption to the economy and society as a whole. This includes its powers in providing opinions regarding the effectiveness of legislative and regulatory texts related to the prevention and combating of corruption (Gharbi, 2021, p. 700).

II .2.2. Powers of the High Authority in Supervising the Use of Public Funds:
The High Authority for Transparency, Prevention of Corruption, and its Combating possesses numerous powers in the oversight of various activities related to the management of public funds and state properties, as defined by Article 05 and subsequent articles of Law 22-08, which are outlined as follows:

A. Powers of the High Authority in Administrative and Financial Investigation:
The High Authority plays a significant role in curbing illicit enrichment through intensive administrative and financial investigations concerning any public official who cannot justify a significant increase in their financial status. These investigations can extend to any person suspected of benefiting from unexplained wealth increases. In this context, the High Authority may request written or oral clarifications from the public official or the person involved. Professional or banking secrecy does not prevent the provision of necessary information to the High Authority, which undertakes the task of administrative and financial investigations into signs of illicit enrichment (Article 05, 2022).

B. Powers of the High Authority in Supervising Relevant Public Bodies:
The High Authority is responsible for monitoring the compliance of public administrations, local communities, public and economic institutions, associations, and other institutions with the systems related to transparency, prevention of corruption, and its combat. These powers enable the High Authority to monitor the effectiveness, quality, and appropriateness of these systems and the ability of the relevant bodies to implement the provisions, measures, and procedures contained in these systems. The High Authority also has the powers to inspect violations and monitor the implementation of the national strategy for transparency, prevention of corruption, and its combating and issue necessary recommendations (Article 205, 2020).

As a result of these entities being under the supervision of the High Authority, additional powers include the authority to notify the Audit Council, which is a crucial area of integration between the two devices in preventing and combating corruption, as well as notifying the competent judicial authorities and issuing orders when necessary to the relevant oversight institutions and devices. The constitutional founder and Algerian legislator have expanded the powers of the High Authority in the oversight role, requiring these institutions and entities to report to the High Authority on their compliance with the recommendations issued to them by the oversight devices. If there is no response or if the High Authority is not convinced by the response, it may directly order the institution or entity to implement the recommendations. If this order is ignored, the High Authority has full authority to inform the competent authorities, including the Audit Council, which also constitutes an area of integration between the two devices, and notify the competent judicial bodies. To activate the above powers and make them more effective, the constitutional founder and Algerian legislator have enabled the High Authority to take the necessary measures for this purpose and the necessity to report any breach of integrity rules. These measures include holding the concerned party accountable and issuing a warning if their responses are ineffective, insufficient, delayed, or not provided at all. The High Authority has the power to issue orders in such situations. Additionally, it has the authority to notify the competent regional public prosecutor if a public official fails to declare their properties or provides a false declaration (Article 10, 2022).

III- The Limits of Integration between Constitutional Oversight Institutions on Public Funds:

Through reviewing the powers of the Audit Council and the High Authority for Transparency and Prevention of Corruption, we observed a type of functional integration in the domain of powers granted to each, aimed at achieving greater effectiveness of these powers as outlined in the first axis of this research paper. From a thorough reading, we conclude that there is an integration in the goals set for both institutions, and a functional integration of a procedural nature between them, detailed as follows:

III.1. Integration in the Goals Set for Both Institutions in the Field of Corruption Prevention and Combat:

Through examining the provisions of Articles 199, 204, and 205 of the 2020 constitutional amendment, and delving into the powers detailed above, especially those of the High Authority as stipulated in Articles 04 to 15 of Law 22-08, we deduce that the Audit Council and the High Authority for Transparency represent two functionally integrated devices in terms of the purpose of their establishment. Both contribute together to enshrine good governance and transparency in the management of public funds and their uses. In this context, it should be noted that integration and coordination in the field of corruption prevention and combat are constitutionally, legislatively, and regulatorily established among all institutions, devices, and structures concerned with oversight, inspection, and corruption combat in Algeria.

According to Article 199, paragraph 02 of the constitutional amendment, the Audit Council contributes to the promotion of good governance and transparency in managing public funds and account deposition. According to paragraph 08 of Article 205 of the constitutional amendment, which outlines the tasks of the High Authority for Transparency, it is responsible for contributing to the moralization of public life and enhancing the principles of transparency, good governance, prevention, and combating of corruption, aiming legally to achieve the highest indicators of integrity and transparency in public affairs management (Article 04, 2022).

These goals are realized, in addition to what has been outlined above, from the legislative foundation of the functional integrative construction between these two constitutional institutions, referred to by Articles 199 and 205 of the 2020 constitutional amendment. In addition to Law 22-08, which established this in terms of the powers of the High Authority for Transparency as previously clarified, those interested in the subject are still awaiting the issuance of the organic law regulating the Audit Council, which will define its relations with other state structures charged with oversight, inspection, and corruption combat, including the High Authority for Transparency (Article 199, 2020).

The discussion on the requirements of functional integrative construction in its procedural aspect between the two institutions methodologically begins with reminding us that integration between them is not only achieved procedurally but also through the intersection of their powers as a form of functional integration to achieve those goals.

The constitutional founder has granted both institutions extensive overlapping administrative, preventive, and remedial powers. For the Audit Council, primarily in post-audit quality control of management, achieving it through the effectiveness and efficiency, using measurement operations that assess compliance with standards between set goals and achieved results.

Similarly, the role assigned to the High Authority for Transparency and Prevention of Corruption starts with its oversight role, taking the form of administrative follow-up in many of the tasks assigned to it. It has the administrative authority to ensure the quality, effectiveness, and suitability of the transparency and corruption prevention systems in place. According to Article 07 of Law 22-08, "The High Authority oversees the compliance of public administrations, local communities, public and economic institutions, associations, and other institutions with transparency and corruption prevention systems," and the legislator has specified the content of administrative follow-up in the provisions of the same law, represented in verifying the existence, quality, effectiveness, and suitability of these systems (Article 08, 2022).

In this capacity, as an administrative authority, it conducts intensive administrative and financial investigations concerning any public official who cannot justify a significant increase in their financial standing, and these investigations can extend to any person suspected in relation to the unjustified increase in the financial standing of the employee if they are the real beneficiary of it. The High

Authority, in this regard, may request written or oral clarifications from the public official or the person involved, and professional or banking secrecy does not prevent the provision of necessary information to the High Authority.

III.2. Procedural Functional Integration between the Two Constitutional Institutions:

Previously, we found that the Audit Council, as an independent supreme constitutional oversight institution, possesses judicial powers that include oversight of accounts submitted by public accountants and ensuring adherence to discipline and procedures in budget and financial management. These powers are part of the post-audit requirements on public funds to promote good governance and transparency in the management of public funds and account deposition.

To enable the role in activating the judicial competence of the Audit Council and achieving its intended purpose, the constitutional founder established a kind of procedural functional integration with the High Authority for Transparency and Prevention of Corruption. This integration serves as a notifying body to the Audit Council whenever it observes violations within its judicial competence. Article 03 of Article 205 of the 2020 constitutional amendment, which includes the tasks assigned to the High Authority, states: "The High Authority, in particular, undertakes the following tasks... Notifying the Audit Council and the competent judicial authority whenever it observes the existence of violations...". Moreover, Article 12 of Law 22-08 on notification procedures states: "When the High Authority comes across facts that may have criminal implications, it notifies the competent public prosecutor regionally. It notifies the Audit Council if it finds actions that fall within its jurisdiction. The High Authority shall provide the notified party with all documents and information relevant to the notification." This is in contrast to the National Authority for the Prevention of Corruption, which did not have powers to notify the Audit Council and judicial bodies but had the power to inform the Minister of Justice about the observations and violations it detected, who would then decide whether to initiate proceedings or archive the file (Qoumiri, 2022, p. 192).

The constitutional founder and the Algerian legislator have moved to establish procedural functional integration between the two institutions to activate their establishment and functional requirements. The post-audit practice of the Audit Council is primarily based on information related to its judicial competencies, which it might receive through notification procedures from the High Authority, given that it constitutionally has the task of collecting and processing information on acts of corruption and making it available to the competent devices. This task is legislatively sanctioned where the legislator allowed the High Authority to be notified by any natural or legal person who has information, data, or evidence related to acts of corruption (Article 06, 2022). The legislator also imposed cooperation with the High Authority by public institutions and bodies, as well as any natural or legal person, public or private, who possesses information or documents requested for its tasks (Article 13, 2022), which falls under the penalties prescribed for the crime of obstructing the proper administration of justice in the prevailing legislation on corruption prevention and combat (Article 44 , 2006).

Furthermore, the High Authority may come across information that necessitates resorting to notifying the Audit Council to initiate its judicial competencies. This information finds its source in what is imposed on the High Authority according to Article 04 of Law 22-08 to find ways to cooperate and exchange information with regional and international bodies and organizations specialized in corruption prevention and combat, especially civil society organizations which are considered a significant actor in this field and also represent a link between the citizen and the High Authority. This simultaneously activates a constitutional task assigned to the High Authority, which is its contribution to strengthening the capacities of civil society and other actors in the field of corruption combat (Article 105, 2022).

The procedural functional integration between the two institutions may also be realized through the information the High Authority obtains based on the content of the reports that the concerned institutions and bodies must raise to the High Authority, which detail their compliance with the recommendations directed to them by the High Authority's oversight devices. If there is no response or if the High Authority is not satisfied with the response, it directly orders the institution or body to implement the directed recommendations. If the order issued by the High Authority is ignored, it has full authority to notify the competent body, alongside the competent devices specified through regulation at the Audit Council if it turns out that there are violations in those reports that require notification.

IV- Conclusion:

In conclusion of this research paper, after reviewing the powers granted to the Audit Council and the High Authority for Transparency and Prevention of Corruption, and observing the aspects of integration between them, we present the following results and recommendations:

Results:

- The Audit Council is a specialized body that oversees the funds of the state, regional communities, and public facilities and is the main device for monitoring the use, management, and post-audit of public funds.
- Among the most important activities of the Audit Council are auditing the conditions under which bodies use resources and public funds, evaluating the management of these resources, and exercising evaluative oversight to ensure that the financial and accounting operations of these bodies comply with the laws and regulations in effect.
- The High Authority for Transparency and Prevention of Corruption is a constitutional institution that oversees the management of properties and public funds. It is a newly established institution, an alternative to the National Authority for the Prevention of Corruption, with broader powers granted by the Algerian legislator than those practiced by the former authority. Moreover, it has been made a constitutional principle, granting it constitutional immunity.
- The constitutional founder has granted the High Authority for Transparency broader powers and constitutional status compared to the mechanisms and tools provided to the National Authority, notably granting the High Authority complete independence from the three powers, especially the executive. However, it is subject to another type of oversight from the executive, represented by the President in terms of report submission or appointments.
- The preventive and advisory nature predominates in the powers of the High Authority, which largely obscures the deterrent aspect that such an authority should possess, as evident from the tasks assigned to it in Article 205 of the 2020 constitutional amendment.
- In terms of integration between the Audit Council and the High Authority, the High Authority notifies and informs the Audit Council whenever it observes violations related to administrative and financial corruption and also participates in training agents of the Audit Council.

Recommendations:

- There is a necessity to expedite the issuance of the organic law that regulates the Audit Council, as specified by Article 199 of the 2022 constitutional amendment, outlining its relations with other state structures charged with oversight, inspection, and corruption combat, including the High Authority for Transparency.
- It is essential to enhance procedural functional integration to include coordination between the High Authority for Transparency and the Audit Council in the field of administrative and financial investigations entrusted to the High Authority and the administrative powers of the Audit Council.
- The High Authority for Transparency should be enabled to inform the Audit Council about the content of the reports that the relevant institutions and bodies must raise to it without requiring it to identify violations within the council’s jurisdiction.

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