

The Role of the General Financial Inspectorate in Combating Corruption under Algerian Legislation

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Abstract:

Corruption is one of the gravest challenges confronting national economies, particularly in light of the transformations that have characterised the international community as a result of a range of factors — foremost among them globalisation, which has contributed to the retreat of the traditional role of the State and thereby opened the door to the widespread proliferation of this phenomenon, including in the Maghreb countries in general and in Algeria in particular. In this context, Algeria has made considerable efforts to combat corruption, materialised in the creation of a number of specialised bodies and agencies — among them the National Authority for the Prevention of and Fight against Corruption, the Central Office for the Repression of Corruption, and the Court of Audit — as well as the General Financial Inspectorate, which plays a pivotal role in this field.

Keywords: corruption; General Financial Inspectorate; anti-corruption.

Introduction

The Algerian legislator has introduced a series of legal mechanisms and institutions aimed at strengthening the anti-corruption framework and curbing its various manifestations — among them the National Authority for the Prevention of and Fight against Corruption, the Central Office for the Repression of Corruption, and the Financial Intelligence Unit — within the framework of a comprehensive criminal and preventive policy targeting the deterrence of offences relating to public funds. The General Financial Inspectorate was likewise established by Executive Decree No. 80-53, vested with specific missions and organised at both central and regional levels.

The General Financial Inspectorate performs an essential function: safeguarding public funds through the oversight of the management of public monies — in particular through ex-post control of budget implementation — thereby reinforcing the principles of transparency and accountability in public administration.

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Against this background, the following central research question arises: ***To what extent are the interventions of the General Financial Inspectorate effective in combating the various forms of corruption in Algeria?***

To address this question, the study is divided into two principal sections: the first examines the organisation of the General Financial Inspectorate and the definition of its powers, while the second sets out the rules governing its supervision and its intervention mechanisms.

Section One: Definition and Organisation of the General Financial Inspectorate

The following sub-sections present, in brief, the legal texts governing the General Financial Inspectorate (GFI), its missions, and the broad outlines of its organisation.

Sub-section One: The Legal Framework Governing the General Financial Inspectorate

The General Financial Inspectorate was established by Decree No. 80-53 of 1 March 1980, which defined the missions and organisation of the body. This was followed by Decree No. 83-502 of 20 August 1983 containing the internal regulations of the GFI, and subsequently by Executive Decree No. 92-78 of 22 February 1992, which defined the competences of the GFI. Both of the latter two instruments have since been repealed. The missions and organisation of the General Financial Inspectorate were comprehensively reviewed in 2008, with the issuance of four legislative instruments:

- Executive Decree No. 08-272 of 6 September 2008, determining the powers of the General Financial Inspectorate.
- Executive Decree No. 08-273 of 6 September 2008, on the organisation of the central structures of the General Financial Inspectorate.
- Executive Decree No. 08-274 of 6 September 2008, determining the organisation of the regional inspectorates of the General Financial Inspectorate.
- In addition to these three instruments, Ordinance No. 08-01 of 28 February 2008 was enacted, supplementing Ordinance No. 01-04 of 20 August 2001 relating to the organisation of public economic enterprises.

Sub-section Two: Missions of the General Financial Inspectorate

In general, the General Financial Inspectorate carries out three groups of missions:

1. It supervises the financial and accounting management carried out by State departments and territorial communities, as well as the bodies, agencies, and establishments subject to the rules of public accounting. It also exercises this control over the following bodies: social security bodies belonging to the general and compulsory system, as well as all bodies of a social and cultural character that benefit from State or public-body assistance, and any other public establishment irrespective of its legal status.
2. The General Financial Inspectorate supervises the use of resources collected by bodies or associations of any legal status in connection with solidarity campaigns requiring public donations — in particular for humanitarian, social, scientific, educational, cultural, and sporting causes — and supervises any other legal person benefiting from financial assistance from the State, a local authority, or a public body in the form of a contribution, subsidy, loan, coordination arrangement, or guarantee.²
3. The GFI carries out evaluation missions in respect of budget systems.

²Ridha Mahdi, "The Role of the General Inspectorate in Combating Financial Corruption," *Journal of Legal and Political Studies*, Vol. 8, No. 2 (2022), p. 260.

4. Economic and financial evaluation of comprehensive, sectoral, sub-sectoral, or entity-level activity, through:

- Audits, studies, investigations, and assessments of an economic, financial, and accounting nature.
- Evaluation of the conditions for the management and operation of public services by concession-holding enterprises, irrespective of the applicable regime. Within the same framework, the GFI may evaluate the conditions for the implementation of public policies and the results connected therewith.

As regards the supervision of public economic enterprises, in addition to Article 2 of Executive Decree No. 08-272 of 6 September 2008 — which provides that the General Financial Inspectorate supervises every other public establishment irrespective of its legal status — Ordinance No. 08-01 of 28 February 2008, supplementing Ordinance No. 01-04 of 20 August 2001 on the organisation, management, and specific features of public economic enterprises, confirmed this mission through a legislative provision. Article 7 bis of that instrument provides: 'Notwithstanding the provisions of commercial law, the General Financial Inspectorate may supervise the management and audit the accounts of public economic enterprises upon request from the authorities or bodies representing the State as a shareholder, under the conditions and modalities determined by regulation. However, public economic enterprises entrusted with projects financed by a contribution from the budget are subject to the external supervision of the General Financial Inspectorate in accordance with the modalities prescribed for public establishments and administrations.'

Sub-section Three: Organisation of the General Financial Inspectorate

The General Financial Inspectorate comprises central structures and regional inspectorates, each of which is examined below.

First: Central Structures

The General Financial Inspectorate is headed by the Chief Inspector of the General Financial Inspectorate, under the direct authority of the minister responsible for finance. The central structures of the General Financial Inspectorate are as follows:³

- Operational supervision, audit, and evaluation structures headed by financial controllers.
- Operational units headed by mission directors responsible for inspection.
- Study, inspection, administration, and management structures: the Directorate of Programme, Analysis, and Synthesis; the Directorate of Methodology, Standardisation, and Information Technology; and the Directorate of Means Administration.

Four Senior Financial Controllers are each responsible for a number of sectors, as follows:

- (a) Sectors of authority administration, financial agencies, and administrations responsible for industry, mines, and energy, as well as local communities.
- (b) Sectors of higher education and scientific research, education, training, health, social affairs, national solidarity, culture, communication, religious affairs, youth and sport, veterans, and employment.
- (c) Sectors of water, public works, housing, agriculture, sea fisheries, forestry, and services.
- (d) Public economic enterprises, public financial institutions, and the audit of external loans.

³Cheikh Abd al-Saddiq, "Control by Financial Bodies and Agencies over Public Procurement," paper presented at the National Conference on the Role of Public Procurement Law in Protecting Public Funds, Faculty of Law, University of Medea, 20 May 2013, p. 21.

The number of mission directors is twenty (20), and the number of inspectors heading supervision teams is thirty (30). The study, standardisation, administration, and management structures are composed as follows:⁴

— Directorate of Programme, Analysis, and Synthesis: composed of three heads of studies.

— Directorate of Methodology, Standardisation, and Information Technology: composed of two heads of studies.

— Directorate of Means Administration: comprising four sub-directorates — the Sub-Directorate of Personnel; the Sub-Directorate of Budget and Accounting; the Sub-Directorate of General Means; and the Sub-Directorate of Training and Professional Development.

Second: Regional Inspectorates of the General Financial Inspectorate

The regional inspectorates of the General Financial Inspectorate are the external services of the GFI. There are ten (10) regional inspectorates, headquartered in the following cities: Laghouat, Tizi Ouzou, Sidi Bel Abbès, Constantine, Ouargla, Tlemcen, Sétif, Annaba, Mostaganem, and Oran. The territorial jurisdiction of the regional inspectorates is determined by order of the minister responsible for finance. Each regional inspectorate is headed by a regional inspector and comprises operational units directed by the regional inspector and the inspectors responsible for inspection.

Section Two: Supervisory Mechanisms of the General Financial Inspectorate and Its Role in Combating Financial Corruption

There is no doubt that the General Financial Inspectorate constitutes a supreme body for ex-post control over the funds of the State, territorial communities, and public services — a role that is manifest in the substantive provisions concerning its function in combating financial corruption, which are designed to ensure the transparent management of public funds and to reinforce the prevention and suppression of fraud, unlawful practices, and misconduct. Given the importance of the matter, the study proceeds to examine the scope of the Inspectorate's supervision and then to set out the nature and types of financial control with which it has been entrusted.

Sub-section One: The Scope of the General Financial Inspectorate's Supervision of Public Funds

A preliminary reading of the provisions of Decree No. 80-53,⁵ as amended and supplemented by Decree No. 08-272 on the General Financial Inspectorate, reveals that the Algerian legislator has endowed the GFI with a range of powers directed at the control of public funds. It is noteworthy that this control extends to all the various public bodies as well as to establishments in which public legal persons hold a part of the share capital. Moreover, the jurisdiction of the General Financial Inspectorate in controlling public funds extends to the supervision of the use of financial resources collected by public bodies in connection with national solidarity campaigns.

An examination of Articles 6 to 15 of Decree No. 80-53 reveals that they define the scope of supervision exercised by the General Financial Inspectorate, which extends to:

- All State departments and territorial communities, as well as public establishments, services, and bodies of all kinds subject to the rules of public accounting.
- All public services of an industrial and commercial character, and public establishments and bodies engaged in industrial, commercial, or financial activities whose funds, resources, or capital are entirely of a public nature.

⁴Ridha Mahdi, op. cit., p. 261.

⁵Decree No. 80-53 of 1 March 1980 on the General Financial Inspectorate, *Official Gazette*, No. 10, 4 March 1980.

- All companies, establishments, and bodies of any legal status in which the State, territorial communities, or other public services hold a controlling interest in the capital or decision-making authority, whether jointly or separately.
- Public shareholdings in companies, establishments, and bodies of any legal status in which the State, territorial communities, or other public establishments or bodies hold a portion of the share capital.
- Bodies administering compulsory social insurance and protection schemes.
- The results of the use of financial assistance granted by the State, territorial communities, or public services or any other body — in particular in the form of subsidies or parafiscal levies — regardless of the beneficiary.

The use of resources collected by bodies of any legal status that resort to public donations in support of humanitarian, social, scientific, educational, and cultural causes, on the occasion of national solidarity campaigns.⁶

New missions were further added to those of the General Financial Inspectorate by Executive Decree No. 08-272⁷ and take the form of evaluation, control over foreign exchange operations and capital movements, and the audit of international loans:

1. Evaluation

This consists in the precise measurement of the degree of achievement of the required objectives and purposes. This mission is provided for in Article 4 of Executive Decree No. 08-272 and encompasses:

- Evaluation of the performance of budget systems.
- Economic and financial evaluation of comprehensive, sectoral, sub-sectoral, or entity-level activity.
- Evaluation of the conditions for the management and operation of public services by concession-holding establishments, irrespective of the applicable regime.
- Audits, studies, investigations, and assessments of an economic, financial, and accounting nature.

The General Financial Inspectorate may also evaluate the conditions for the implementation of public policies and the results connected therewith.⁸

2. Control over Foreign Exchange Operations and Capital Movements

This mission is exceptional in comparison with the others. It consists in authorising GFI officials appointed by joint ministerial order of the minister of finance and the minister of justice to record offences against foreign exchange and capital movement legislation — both inbound and outbound — and is of lesser importance since other bodies are also legally empowered to do so.

⁶It should be noted that Decree No. 80-53 had excluded public establishments of an industrial and commercial character from the jurisdiction of the General Financial Inspectorate; Executive Decree No. 08-272 of 6 September 2008 restored that jurisdiction by recognising the Inspectorate's power to supervise all public funds irrespective of their legal status. See: Ahmad al-Suwaïqat, "Prevention of and Fight against Corruption within the Framework of Control over Public Administrations," *Dafatir al-Siyasa wa-al-Qanun*, No. 7, Faculty of Law and Political Science, University of Ouargla, June 2022.

⁷Executive Decree No. 08-272 of 6 September 2008, determining the powers of the General Financial Inspectorate, *Official Gazette*, No. 50, 7 September 2008.

⁸Ben Bashir Wassila, *The Phenomenon of Administrative and Financial Corruption in the Field of Public Procurement under Algerian Law*, Master's dissertation in Public Law, specialisation in Administrative Procedure, Faculty of Law and Political Science, University of Tizi Ouzou, p. 90.

3. Audit of International Loans

Public loans are subject to the supervision of the General Financial Inspectorate, owing to fluctuations in international markets, the complexity of loan arrangements, the lack of transparency, and the weakness of coordination in their assessment. In this context, the GFI supervises international loans granted by the African Development Bank and the World Bank for Reconstruction. The aim of this control is to ensure proper use of the allocated credits and to provide rigorous, precise, and regular monitoring of funds earmarked for projects.

Executive Decree No. 09-96⁹ further vests the GFI with additional powers under Article 5 thereof, consisting in:

- Control over the management of funds, and examination of the monies, securities, bonds, and assets of any kind held by managers and accountants.
- Obtaining all documents or supporting evidence necessary for their examinations, including reports produced by any supervisory body or external expert.
- Making any verbal or written request for information.
- Conducting on-site enquiries or investigations for the purpose of examining activities or operations recorded in the accounts.
- Consulting files and data of any kind.
- Verifying the authenticity of the documents presented and the reliability of other data and information communicated.
- Carrying out any on-site examination in order to verify that management operations with financial impact have been correctly and fully recorded, and to ascertain, where applicable, that the service has actually been rendered.

In this capacity, the General Financial Inspectorate exercises the right to review all transactions carried out by the accountants of public economic enterprises; however, accounts that have been definitively settled in accordance with applicable legislative and regulatory provisions may not be subject to review. The powers conferred upon the General Financial Inspectorate are therefore considerably broader than those it enjoyed under Executive Decree No. 92-79,¹⁰ which were confined to economic assessment alone.

Sub-section Two: Procedural Rules Governing the Role of the General Financial Inspectorate in Combating Financial Corruption

Alongside the substantive rules, there are procedural provisions governing the role of the General Financial Inspectorate in combating financial corruption. These are reflected in the mechanisms available to the Inspectorate in the discharge of its assigned missions, as well as in the consequences and sanctions arising from its intervention to protect public funds. Each matter is addressed in turn.

First: Mechanisms and Conditions for the Intervention of the General Financial Inspectorate in the Exercise of Control over Public Funds

1. Mechanisms for the Intervention of the General Financial Inspectorate

The mechanism for the intervention of the General Financial Inspectorate in the exercise of control over public funds is manifested in particular in the right of access to information and the investigative

⁹Executive Decree No. 09-96 of 22 February 2009, determining the conditions and modalities of supervision by the General Financial Inspectorate, *Official Gazette*, No. 14, 4 March 2009.

¹⁰Executive Decree No. 92-79 of 22 February 1992, authorising the General Financial Inspectorate to conduct economic assessments of public economic enterprises, *Official Gazette*, No. 15, 26 February 1992.

authority with which the Inspectorate is endowed. Article 55 of Decree No. 80-53 recognises the GFI's right to request all documents capable of facilitating the control of the financial and accounting operations necessary to assess the management of the departments and bodies subject to its supervision, and the right to examine registers, ledgers, documents, and collection and expenditure statements. In addition, the General Financial Inspectorate may hear any agent belonging to the bodies and communities subject to its control, and may conduct all necessary investigations to review operations carried out in connection with departments and establishments of the public sector, regardless of the counterparty with which they transacted.

Accordingly, the Algerian legislator acted wisely in providing, by virtue of Article 56 of Decree No. 80-53, that inspectors of the General Financial Inspectorate — in the exercise of the missions assigned to them — may enter all premises included within the property of a public community or of a body subject to the supervision of the GFI, when investigations so require. Furthermore, they may request the supervisory authorities of the competent external control bodies to provide access to all information, documents, or reports held or prepared by those bodies concerning the accounts and management of the entities under supervision.

It should be noted that the General Financial Inspectorate may involve qualified public-sector agents to assist it with its material tasks and under its responsibility, subject to the approval of the hierarchical authority to which those agents belong. In the same vein, it may consult specialists or appoint experts capable of providing it with information or assistance in its work, where the operations to be supervised, the management activities to be assessed, or the facts to be adjudicated so require.

In addition to the right of access to information and investigative authority, the General Financial Inspectorate prepares reports — most notably the annual report submitted to the Head of Government, setting out the principal findings, observations, and assessments arising from its investigation work, accompanied by the recommendations it considers necessary together with the responses of the responsible officials, legal representatives, and supervisory authorities concerned. In such cases, a copy of the report is sent to the legislative authority.

Second: Conditions for the Intervention of the General Financial Inspectorate

For the General Financial Inspectorate to exercise its mission of supervising and auditing the management of public economic enterprises, certain conditions must be satisfied: it must receive a request from the authorities or bodies representing the State as a shareholder, and must exercise this control in accordance with the conditions and modalities determined by regulation. It should be noted that the legislator has not specified which authorities and bodies are qualified to submit such a request.

The principles of control and inspection must also be observed — among them the principle of surprise in inspection operations relating to financial and accounting management, which must be conducted unexpectedly; the principle of separation between the functions of the inspector and those of the manager, whereby the inspector must not intervene in any form in the management operations of the body under supervision; and the principle of the right to information, which is essential to the public interest. The principle of accusation must equally be respected — meaning, in the rules of public accounting, that the establishment under examination is accused of deficiencies in its financial accounting.

Third: Consequences and Sanctions Arising from the Intervention of the General Financial Inspectorate to Protect Public Funds

The sanctions arising from the intervention of the General Financial Inspectorate for the protection of public funds are varied, as may be inferred from the legal provisions contained in Decree No. 80-53. In this context, if the GFI discovers, in the course of its investigations, situations, events, or violations causing harm to the public treasury or to the funds of the bodies and public establishments subject to its supervision, it immediately informs the relevant departments and their hierarchical authorities responsible for the management of public funds.

In addition to this general case, the Algerian legislator has provided for sanctions in respect of other matters. By way of example, if the General Financial Inspectorate establishes, in the course of its supervision, that sums have been collected or retained unlawfully by natural or legal persons and that those sums remain owed to the State, territorial communities, or a public service, it immediately informs the competent authority so that the amounts due may be recovered by all legal means — as expressly provided by Article 25 of Decree No. 80-53. It should also be noted that if GFI inspectors observe, in the course of their supervision, facts capable of being characterised as criminal, they transmit the file to the territorially competent public prosecutor for the purpose of criminal proceedings, and must in such cases inform the minister of justice, the persons concerned, and the supervisory authorities to which they are answerable.

As regards the penalties that may be imposed on public accountants, Article 61 of Decree No. 80-53 specifies the type and amount of the penalty to which they are liable: the General Financial Inspectorate may issue a financial penalty of between 1,000 and 10,000 Algerian dinars against an accountant who is responsible for delay in the deposit of management accounts, failure to send supporting documents, or failure to submit them. The GFI may also send the accountant concerned a formal demand to submit their accounts within a time limit it determines; upon expiry of that period, the Inspectorate may impose a financial penalty of 100 dinars per day of delay, for a period not to exceed sixty days, after which the provisions of Article 43 (para. 3) of the Code of Criminal Procedure may be applied.

In order to facilitate the work of the General Financial Inspectorate in the exercise of its supervisory function, the legislator has prescribed the punishment of any person who refuses to present or transmit accounts, documents, or records to the GFI in the context of investigations and audits: the applicable penalty is a financial fine of between 1,000 dinars (minimum) and 10,000 dinars (maximum). The same penalty applies to any person who, without justification, fails to provide the General Financial Inspectorate with information necessary for the performance of its missions or who obstructs the audit process. It should be noted, in this connection, that professional secrecy may not be invoked against GFI inspectors and agents.

With regard to the penalties that may be imposed on the public accountant, the legislator expressly states that the General Financial Inspectorate is the body empowered to determine the extent of the personal and financial liability of the public accountant. In cases of theft, loss of funds, securities, or assets, the public accountant may invoke force majeure or prove that they committed no error or negligence in the performance of their duties. In any event, discharge is granted to the public accountant when no irregularity has been recorded in respect of the management that has been examined.

As regards the penalties related to the supervision of budgetary and financial management discipline, Article 89 of Decree No. 80-53 provides that the perpetrator of the violations set out in Article 88 shall be subject to a fine issued by the General Financial Inspectorate against the offender, on the condition that the amount does not exceed the total annual salary received by the person concerned at the date of the violation. In all cases, the fines applicable in this domain may not be imposed without the conditions prescribed by law being satisfied.

On the basis of the foregoing, it appears that the maximum penalty the General Financial Inspectorate may impose on offenders is a financial fine within defined limits — a restriction that is liable to undermine the effectiveness of its role in combating corruption. This highlights the necessity of reinforcing the tools available to the Inspectorate in the exercise of its supervisory function. It is also worth noting that many of the penalties pronounced by the General Financial Inspectorate remain in practice unenforced, particularly given that the GFI's reports and activities are not published in the Official Gazette — unlike the practice followed in respect of certain financial bodies and institutions such as the Bank of Algeria.

Conclusion

From the foregoing, it may be concluded that, notwithstanding the important role played by the General Financial Inspectorate in Algeria in the ex-post supervision of public expenditure — exercised in respect of the finances of public administrative and industrial establishments, State-affiliated companies, and local authorities — the supervisory methods through which it exercises its investigative and detection competences, oscillating between administrative and judicial supervision, remain inadequate. This is so insofar as the reports prepared by the Inspectorate and submitted to the bodies under supervision are, for the most part, disregarded above all because they are not governed by a publication and disclosure mechanism that would make their content accessible to all.

This reveals an important shortcoming: those reports are not linked to genuinely deterrent sanctions particularly where certain major establishments or companies are concerned — even though the gravity of the Inspectorate's missions is clear, focusing in particular on auditing the conditions of use of resources, material means, and public funds, with a view to verifying their compliance with applicable laws and regulations, and with the ultimate aim of ensuring the transparent management of public funds.

To this end, the legislation governing the General Financial Inspectorate must provide — in explicit and unequivocal terms — for strict sanctions through which its decisions may be enforced regardless of the nature of the body subject to supervision, combined with an obligation of publication enabling everyone to access the content of those decisions. This would serve the essential purpose of deterring all those engaged in the misappropriation and embezzlement of public funds, while preserving the credibility and integrity of the Court of Audit.

The legislator has accorded the General Financial Inspectorate considerable importance, recognising it as one of the most significant guarantees, mechanisms, and supervisory instruments for the protection of public funds and an effective instrument in the fight against corruption. Nevertheless, the following measures remain necessary:

- Rationalising public expenditure and controlling budget estimates in accordance with sectoral objectives, by imposing rigour in the disbursement of public funds and adopting preventive measures to avert any manifestation of excess or irregularity.
- Extending the role of supervisory bodies beyond ex-post procedures to encompass permanent and concurrent supervision of certain projects of long duration, the implementation of which entails substantial material costs — so as to ensure the optimal realisation of those projects.
- Expanding the supervisory role beyond the mere protection of public funds to encompass the formulation of recommendations and rules designed to raise the level and quality of performance in a manner that ensures the proper application of international accounting standards, addresses the practical problems to which those standards give rise, and achieves the highest level of confidence necessary to attract foreign investment and capital.

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