

The Role of the Code of Conduct in Combating International Corruption Crimes

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Received: 09/03/2026; Accepted: 17/06/2026; Published: 06/09/2026

Abstract:

This study seeks to clarify the nature of the codes of conduct for public officials and professional ethics as one of the most important anti-corruption measures that the legal texts have been interested in stipulating, especially the law on the prevention and combating of corruption in Algeria.

Therefore, the study will try to highlight the importance, value, and content of these blogs.

Keywords: Code of Ethics - Public Servant Corruption

Introduction:

There is no dispute that corruption has become a prominent topic at the moment, due to its effects that go beyond local affairs, but also because it is one of the most important crimes that transcend national borders, and also because of its various effects on the political, economic and social aspects, in addition to the diversity of its forms, whether financial, administrative, or otherwise.¹

Thus, corruption has become a major problem that requires a solution through the implementation of objective methods and the use of the right tools, most notably legal tools. Taking into account the seriousness of the phenomenon, the various legal texts, whether international or national, have² paid attention to the need not only to stipulate penal provisions that seem to complement the penal legislation in its substantive and procedural aspects, represented in the Penal Code and the Code of Criminal Procedure.

Among the measures that contribute to the prevention of corruption are codes of conduct for public sector workers and professional ethics, which are mentioned in various international conventions and also in Algeria's domestic laws, which include the Law on the Prevention and Combating of Corruption. This law stipulates that the State, local councils, public bodies and companies that conduct economic activities shall promote the values of integrity, honesty and the spirit of responsibility among their employees and elected officials, especially through the establishment of codes and codes of conduct that define the framework that guarantees the

¹ Jacqueline RIFFAULT-SILK, <«la lutte contre la corruption nationale et internationale par les moyens du droit pénal», Revue internationale de droit comparé, vol. 54 n° 02, Paris, 2002, P638.

² The International Convention against Corruption, which was adopted by the United Nations Council in New York on October 31, 2003, is considered one of the most important global conventions in this context, due to the importance of its provisions as well as the large number of countries that have signed it.

correct and impartial performance in public and electoral offices. The law also included the establishment of a special code for judges in view of the importance of this field.

Hence, the importance of this topic is clear because it relates to preventive measures against the destructive phenomenon of corruption. The study of this subject also needs to delve into the value of the laws related to it, especially the Anti-Corruption Law. In addition, research in this field will contribute to knowing the extent to which these codes of conduct are applied by the concerned authorities, which shows a real desire to take steps to prevent corruption.

There is a fundamental problem with these codes that relate to the Code of Conduct and Ethics. This issue is related to the extent to which the aforementioned entities are able to issue these codes, as well as obliging employees of all ranks and categories, as well as elected officials, to do so. This calls for sub-questions regarding the nature of these codes of conduct, as well as their content.

To answer the basic problem and the resulting sub-questions, a descriptive method was used to reveal these rules, in addition to using an analytical method to study their contents. This includes understanding the concept of these codes and codes of conduct, discussing their value and importance, as well as analyzing their content.

The first theme : The impact of international law on codes of conduct in general

Examining the impact of international laws on codes of conduct requires first introducing the rules of ethics by explaining what they are, explaining their features and importance, and then explaining how international law affects them.

First: Introducing the codes of conduct

Before defining the concept of codes of conduct, it is necessary to define the term "code", then "code of conduct", and then "code of conduct".

Behavior in Language: It means the biography and behavior of a person .

As for the rules in the language, they are: the plural of a rule, and one of its meanings is: the foundation, the origin. ¹The combination of the two words means the rules of conduct in language: the foundations that control the conduct or behavior of a person.

As for the terminology, the code of conduct is defined as: "The set of values and behaviors that employees must follow while performing their duties and in their relationships with themselves on the one hand and the public of beneficiaries on the other hand². ³

The rules of conduct are:

- Rules, standards, or principles.
- Rules on Professional Conduct During Tasks
- Rules related to correct or proper functioning.

¹ Gibran Masoud Al-Raed, Dar Al-Ilm Li Millions, Beirut, 7, 1992, p. 610.

² Osama Muhammad Khalil Al-Zeinati, The Role of Professional Ethics in Promoting Social Responsibility in Palestinian Governmental Hospitals, Master's Thesis, Academy of Management and Policy for Graduate Studies, in partnership with Al-Aqsa University, Palestine, 2014, p. 09.

³ Hakim Asmaa Douli Lakhdar, The Contribution of Management Ethics in Raising the Level of Job Performance within the Organization with Reference to Taheri Mohamed University - Bashar, Al-Bashayer Economic Magazine, Faculty of Economics, Commercial Sciences and Management Sciences, Taheri Mohamed Bashar University, Issue 2 June 2017, p. 248.

The term "code" refers to a set of legal or jurisprudential provisions that are systematically arranged.

Based on what has been mentioned in the linguistic and terminological definition, the Code of Conduct is: a set of instructions or standards that regulate the actions of workers and employees to ensure fair and correct performance of tasks¹. With this definition, what distinguishes the Code of Conduct for Public Sector Workers from other similar rules?

Second: Codes of Conduct are characterized by a number of characteristics, the most important of which are

They are ethical principles and standards: they are ethical obligations that an employee or worker adheres to when interacting with his colleagues and people while performing his duties. These principles include, for example, good treatment, respect for others, and maintaining confidentiality and non-disclosure of work.

1- They are written and codified rules and standards

Where they are often defined by law, rules or labor policies as a reference for the employee or worker to adhere to during the performance of duties, they can exist in one group under the name of the Code of Professional Conduct or they can appear within the document regulating the job or field.

2- They are mandatory rules and standards

The Code of Conduct is laws that must be followed, and if it is violated, there is a penalty that applies to the employee or worker. These laws become binding because of the text that created them, and the penalty is often in the form of a disciplinary penalty imposed by the responsible authority on the offending employee or worker.

3- They are rules that enjoy privacy according to the nature of the profession or job:

Since codes of conduct govern the way workers and employees work, the different types of jobs and tasks necessitated a diversity of these rules. However, this does not eliminate the existence of similar rules among different categories, due to the existence of common standards of behavior between businesses and jobs. For example, judges have their own set of rules, teachers in the basic education sector have a different set of rules, as do professors in higher education and security personnel, each with its own set of rules.

After clarifying the characteristics of the Code of Conduct, it is useful to ask: What role do these rules play in regulating and correcting the actions of a public servant?

The role of the Code of Conduct is as follows:

- The Code of Conduct helps in the execution of functions in a correct and honest manner, as it acts as a guide for employees and workers in performing their work excellently to achieve the public interest and the good functioning of public utilities.
- Adherence to the Code of Conduct helps reduce corruption of all kinds, as good performance within these rules is one of the means of protection against corruption, and

¹ Boutaba Mourad, Code of Conduct for Employees as a Mechanism for the Prevention of Corruption, Intervention at the International Conference on: Legal and Institutional Mechanisms to Combat Corruption between the Priority of Combating and the Need for Organized Prevention from the Faculty of Law and Political Science at Mohamed Boudiaf University of Messila, February 26 and 27, 2020, p. 07.

when corruption occurs in any sector, one of the main reasons for this is a lack of adherence to the codes of conduct and professional ethics and acting based on personal whims and motives.

- Adherence to the Code of Conduct can lead to job satisfaction within public institutions and departments, as well as improve the relationship between management by providing a public service characterized by quality, smoothness, and speed.

Third: Manifestations of the Impact of International Law on Codes of Conduct

International law has an impact on professional law in its various branches, due to several factors, the most important of which are:

In the light of globalization, political, economic, cultural and technological factors are forcing countries to constantly adjust the management of their labor relations to keep pace with development trends.¹

The establishment of several international and regional labour organisations, such as the International Labour Organization (ILO) and the Arab Labour Organization, has contributed to the organization of many labour issues within the framework of international conventions and treaties.

Research and the exchange of experiences in the field of labor relations between countries have also promoted the development of labor law and its alignment with international practices. What is the impact of international law on Algerian labour law? Algerian labor law is influenced by international law. One of the manifestations of this influence is the large number of international conventions and treaties concluded by States in the field of labour relations, which, after their ratification, become sources of Algerian labour law. For example:

Convention No. 58 of 1936 concerning the Minimum Wage

Convention No. 87 of 1948 on Freedom of Association and Protection of Trade Union Rights

Convention No. 98 of 1949 on the Discussion of Organization and Collective Bargaining

Convention No. 100 of 1951 concerning Equal Remuneration;

Convention No. 111 of 1958 on the Abolition of Discrimination in Employment and Vocational Training

Convention No. 122 of 1964 on Employment Policy.

In 2007, there were 188 conventions concluded under the ILO. In the same year, Algeria ratified 58 of them, covering various areas, while the ILO had issued 199 recommendations by 2007.²

These examples show that international law influences national labour laws in all areas, and thanks to the aforementioned factors, national labour laws tend to be harmonized and standardized. The presence of international and regional organizations dedicated to addressing labor issues and translating common aspirations and visions into international conventions and treaties that directly affect national laws is the most important factor in this regard.

¹ Bashir Hadafdi Al-Wajeez in the Explanation of the Labor Law, Dar Al-Rayhan for Books, Algeria, 2003, p. 28

² Slimane Ahmia, The Law of Labor Relations in Algerian Legislation, Special Publication for Third-Year Students of the Senses, Faculty of Law, University of Algiers 1, 2014-2015, p. 15

Now that the general impact of international law on domestic law in relation to professional relations has been identified, the following question arises: what is the specific impact of international law on codes of conduct?

The impact of international law on codes of conduct is manifested in two ways: first, through the development of codes of conduct directly through international conventions or treaties; and second, through the identification of codes of conduct that states translate into applicable laws or regulations.

With regard to the first aspect, i.e., the development of codes of conduct, we cite, for example, the Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in resolution 34/169 of 17 December 1979. This Code contains several provisions, the most important of which are: the obligation of public officials to perform their professional responsibility in the service of society and the protection of individuals from illegal acts, and to respect human dignity and rights in the performance of their professional duties; Prohibit the use of force by public officials in the performance of their duties except when absolutely necessary, maintain the confidentiality of transactions, and avoid any corrupt practices.¹

Similarly, the UN General Assembly adopted resolution 51/59 in December 1996, which adopted the Code of Conduct for Public Officials. This code includes several provisions, including disclosure of assets, avoiding conflicts of interest, prohibiting the acceptance of gifts, and respecting confidentiality.

In order to harmonize codes of conduct among different entities, WHO has published the International Code of Conduct for Pesticide Management, laying the foundations and norms for pesticide management from a public health perspective.

Another example is the Code of Conduct for Political Integrity for Elected Officials in Europe, adopted by the Council of Europe Conference on Local and Regional Authorities on 17 June 1999. This code outlines the most important rules that elected officials must follow to exercise their powers during their tenure.²

These examples show that international and regional organizations recognize the importance of codes of conduct in regulating the conduct of staff and employees, and have developed codes of conduct in specific areas to guide them in the ethical performance of their duties.³

The second aspect, the indirect impact of international law on codes of conduct, is reflected in some treaties and conventions that emphasize the need for States to draft codes of conduct in specific areas and to define their concrete provisions. For example, article 8 of the 2003 United Nations Convention against Corruption states: "... In particular, each State Party shall

¹ Articles: 01 02 03 04, 07 of the Code of Conduct for Public Officials in Charge of Law Enforcement adopted by the United Nations General Assembly in Resolution 34 169 of 17 December 1979.

² The International Code of Conduct for Pesticide Management issued by the Executive Board of the World Health Organization (WHO) at its 134th session on 29 November 2013

³ Conseil de l'Europe, code de conduite européen relatif à l'intégrité politique des élus locaux et régionaux., mars 2017.

endeavour, within its institutional and legal framework, to formulate codes of conduct or standards for the proper, honourable and impartial performance of public functions."¹

One notable example is the African Charter on the Values and Principles of Public Service and Administration, whose Article 12 affirms the obligation of States Parties to establish national systems of accountability and integrity aimed at promoting ethical social behaviours and convictions as a key means of preventing corruption². The Charter also dedicates its third chapter to the Code of Conduct for Public Service Employees, stressing the need for their commitment to professionalism, transparency, and integrity, while promoting excellence and innovation in the performance of the tasks entrusted to them. The charter also stipulates the importance of dealing with the beneficiaries of public services with tact, impartiality, and transparency, and acting responsibly and faithfully in accordance with the applicable laws and regulations. In addition, it stressed the need to refrain from soliciting or accepting any sums of money, gifts, or rewards in any way, and to emphasize that the position should not be used for political or personal purposes.

In accordance with the above-mentioned international standards, Law 06-01³ on the prevention and combating of corruption was promulgated, as amended and supplemented, as Article 7 of the Code of Ethics stipulates the following: The State, elected institutions, local communities and public bodies, as well as public economic institutions, shall support the fight against corruption by promoting the values of integrity and honesty and encouraging a sense of responsibility among officials and elected officials. In particular, this is done through the development of codes and codes of conduct that set out the framework necessary to ensure the proper functioning of public functions and electoral functions. In compliance with this text and in detail its requirements, a number of regulatory texts have been adopted that clarify codes of conduct, the most prominent example of which is Presidential Decree No. 15-247⁴ on the regulation of public procurement and the mandates of public utilities.

Through the above, a number of observations can be recorded:

The consolidation of the efforts of States within the framework of international organizations has clearly affected the course of international law in general, and codes of professional conduct in particular. Member States of international and regional organizations have paid great attention to the ethics of the working environment and the regulation of the professional conduct of workers and employees, as well as the fight against corruption. This has been achieved through the development of uniform codes of conduct or the development of general

¹ The United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on October 31, 2003, ratified by Algeria with reservation by Presidential Decree No. 04-128 of 29 Safar 1425 (April 19, 2004), G.R. No. 29 of 2004.

² The African Charter of Values and Principles of Public Service and Administration, adopted in Addessa Baba on January 31, 2011, was ratified by Algeria by Presidential Decree No. 12-415 of 27 Muharram 1434 (December 11, 2012).

³ Law No. 06-01 of 21 Muharram 1427 (20 February 2006) on the Prevention and Combating of Corruption, free, vol. 14 of 2006, as amended and supplemented by Law No. 11 of 2 Ramadan 1432 (2 August 2011), G.R., v. 44 of 2011.

⁴ Presidential Decree No. 15-247 of 162 Dhu al-Hijjah 1436 corresponding to September 2015, regulating transactions and authorizations of the public utility, G.R., p. 50 of 2015.

principles that help States formulate more detailed codes that suit the needs of each segment of the workforce. The example cited on the impact of international law on codes of conduct is just a simple example, as there are many other examples that cover a variety of fields, but not all of them are presented.¹

The second theme is the content of preventive measures against corruption in codes of conduct and rules of professional ethics.

Some believe that the privacy of the activity and services provided by public utilities, and the corresponding rights and privacy of the beneficiaries thereof², necessitates the development of a special legal framework regulating the activity of these facilities. This is all the more important given that it is closely linked to a fundamental concept and fundamental principle of public interest.³

The Algerian legislature has identified the bodies responsible for the preparation of codes of conduct in the text of article 07 of the Law on the Prevention and Combating of Corruption. These entities include the State, elected councils, local communities, public institutions and bodies, as well as public institutions with economic activities. In addition, the law has added a special provision on the Code of Professional Ethics for the Judiciary. Accordingly, the conduct of public officials and professional ethics within the framework of the various functions will be dealt with as follows.

First: Codes of Conduct and Professional Ethics in the Fields of Public Service and Public Procurement

Given the pivotal role of the public servant in the work of public utilities and being the main element of their activity and considering that the most prominent activities are particularly related to legal conduct, especially administrative contracts such as public procurement, it is necessary to highlight the importance of codes of conduct in this context.

1- Codes of Conduct and Professional Ethics in Public Service.

The public service and elected councils are among the most prominent sectors that require the establishment of strict rules for the conduct of public servants. In this context, the National Authority for the Prevention and Combating of Corruption, as already explained, has prepared a draft code of conduct for public officials, whether appointed or elected. In the third chapter of the draft, a number of rules were drafted under the heading of moral values that a public official must abide by. The draft also addressed the responsibilities of the public servant, highlighting the need to achieve transparency by enabling beneficiaries to have free access to the required information, and adopting organized procedures for handing over tasks when

¹ Saeed Moghaddam, *The Public Service between Development and Transformation from the Perspective of Human Resources Management and Professional Ethics*, Diwan of University Publications, Algeria, 2010, p. 299

² Jean-Marc Sauvé, *Quelle déontologie pour les hauts fonctionnaires ?* Revue française d'administration publique, N° 134, Paris, 2013, P 727

³ Mainoo Al-Jilali, *The Ethics of the Judicial Profession in International Covenants*, Arab Legislation and Islamic Sharia, Al-Ijtihad Journal for Legal and Economic Studies, Tamangst University Center, Issue 02, 2016, p. 212.

changing positions. In addition, the Code included articles on the declaration of property and rules to avoid conflicts of interest.¹

The draft code went on to highlight some of the behaviors that can negatively affect the reputation of a public official and the public service, such as abuse of power, abuse of influence, receiving suspicious gifts and invitations, while stressing the need for the independence of the public official. Chapter IV also includes disciplinary measures that are carried out separately from criminal procedures. What is noted about the content of the Code of Conduct for a Public Official is that it focuses on a limited number of acts associated with corruption offences. It would have been preferable for the Rules to include clear directives obliging a public official to refrain from any practice that might constitute offences, particularly those related to corruption, since the primary objective of the Code was to contribute to measures to prevent and combat corruption. The draft code confirmed that it was prepared in accordance with article 07 of the Law on the Prevention and Combating of Corruption.²

In addition, with regard to the rules contained in the draft code relating to disciplinary procedures, it is true that these procedures remain independent of any penal proceedings. However, the draft appears to be in contradiction with what it referred to earlier when defining the Code and the Code of Conduct discussed earlier, as the definition indicated that the Code includes both disciplinary and punitive measures in the event of an employee breaching the obligations set out in the Code Rules. In fact, it would have been more appropriate to refer only to criminal procedures, since the latter are regulated and defined only under the Penal Code, in compliance with the principle of criminal legality.

It seems that the National Authority for the Prevention and Combating of Corruption, which completed the draft code, has been keen to integrate all the categories covered by the concept of public servants, including elected officials. It seems that it was aimed at preparing a general and comprehensive code, which is explicitly referred to in the draft, as it considered that the code addresses the public official in its broad sense, whether he is a designated official or an elected official, regardless of the nature of the body in which he performs his duties or functions. This comes at a time when most legal systems in the field of public service tend to establish specialized codes of conduct, some of which deal exclusively with the public service, while others focus on local communities and others.

In addition to the Code of Conduct for Employees in the State Administrative Apparatus of the Arab Republic of Egypt, the Code of Conduct and Ethics of Public Service in the Hashemite Kingdom of Jordan, as well as the Principles of Professional Conduct and Ethics of the Public Service of the United Arab Emirates referred to earlier, other legal systems have tended to

¹ It was noted that no codes of conduct were prepared and issued for elected officials, whether they were members of parliament or members of local councils. On the other hand, other rules have been established related to cases of incompatibility, and in this context the organic law No. 12-02 of 12 January 2012, which defines cases of incompatibility with the parliamentary mandate. This law was published in the Official Gazette of the People's Democratic Republic of Algeria, First Issue on January 14, 2012.

² Draft Code of Conduct for Public Officials prepared, National Authority for the Prevention and Combating of Corruption, Algeria, without mentioning the date of publication, p. 08.

develop codes of conduct in the field of public service. In France, a law on professional ethics and employee rights was passed in 2016, which made fundamental changes to several legislative provisions, including important provisions in the 1983 law on the rights and obligations of employees. The provisions in force stipulate a set of legal rules that a public servant must abide by, including the need to perform his administrative duties by maintaining dignity in a manner befitting the dignity of the job, observing impartiality and impartiality, and achieving equality among all beneficiaries without discrimination for any reason. The law also emphasizes the responsibility of administrators to monitor the compliance of their subordinates with these rules to ensure their effective application.¹

Tunisia's legislature adopted a similar approach when in 2014 it issued a decree on the ratification of the Code of Conduct and Ethics of Public Aid. Chapter II of this text obliges all public officials, regardless of their job classifications, administrative ranks or professional positions, to be familiar with the Code and to abide by its rules. This obligation includes employees of central, regional and local State services, as well as employees of local communities, public institutions and enterprises. The Code contains a set of mandatory rules that define the values of work in the public sector, and regulate the relations between public officials themselves and their relations with users of public utilities and the media. It also addressed important rules related to conflicts of interest, declaration of property, as well as dealing with gifts and privileges, and parallel activity.²

It is clear that the National Authority for the Prevention and Combating of Corruption has sought through the draft code to draft a general code of conduct that includes binding codes of conduct. These rules target both public servants in the context of public service or public institutions associated with public utilities, especially those of an administrative nature, as well as elected officials at all levels, whether at the national or local levels. This approach is different from that of most other blogs.³

In any case, the public sector is in dire need of drafting a comprehensive and detailed code of conduct, which contains clear and specific rules that must be formally adhered to in accordance with binding legislative or regulatory provisions. This necessity is further evident when considering the opinions of some academics and experts who have emphasized that the public service suffers from the absence of an integrated and effective code of professional ethics, as these codes have long been largely confined to the field of liberal professions only. Although there are certain basic rules governing work, whether they are stipulated in the Basic Law of the Public Service or embedded in the relevant legal texts, they remain confined to the general framework without reaching the level of deep rooting that can provide a more comprehensive ethical framework and accurate guidance for guiding professional behaviors within this vital field.

¹ See Draft Code of Conduct for Public Officials, op. cit., p. 03.

² Loi n° 2016-483 du 20 avril 2016 relative à la déontologie et aux droits et obligations des fonctionnaires. Visité le 04 Juillet 2019.

³ Code of Conduct and Ethics of Public Aid of the Republic of Tunisia, see Decree No. 30/2014 of 03/10/2014 on the Code of Conduct and Ethics of Public Assistance, Official Gazette of the Republic of Tunisia, No. 07/2014, issued on 07/11/2014.

2- Codes of Conduct and Professional Ethics in the Field of Public Procurement

The field of public service is not the only area that requires the establishment of codes of conduct and professional ethics, as public procurement is also of great importance due to its direct connection to the public treasury of the state. Public transactions drain huge budgets from the state treasury, whether because of the diversity of administrative bodies or the diversity of the nature of those transactions. It is also one of the main tools for the implementation of development programs at the national and local levels¹. In addition, public procurement is one of the most vulnerable environments to corruption. Therefore, there is a need to develop strict measures aimed at prevention and control, which is why the Algerian legislature has adopted an approach that includes the organization of codes of professional conduct for workers in this field as part of preventive measures against corruption. This trend was evident in Article 60 of Presidential Decree No. 10-236 of October 7, 2010, which dealt with the regulation of public procurement before it was abolished by 2015. The article stipulates the adoption of an executive decree defining the code of professional ethics in the field of public procurement, and clarifying the rights and duties of public officials during the stages of monitoring, concluding and executing contracts.²

While the 2010 Public Procurement Regulation³ did not specify who was responsible for the drafting of the Code, the 2015 Public Procurement Regulation and Public Utility Authorizations, which came into effect, made this point. In the first paragraph of article 88, this responsibility is assigned to the authority to control public procurement and public utility mandates, which is mandated to draw up this code, which also includes the scope of public utility mandates, and is approved by the Minister in charge of finance. The second paragraph also stipulates that the agents involved in the processes of monitoring, concluding and executing public procurement and the mandates of the public utility must be obliged to review the contents of this code and formally pledge to abide by it through a declaration to this effect, in addition to signing a declaration confirming that there is no conflict of interest.⁴

It is noted that the National Authority for the Prevention and Combating of Corruption has paid great attention to the implementation of the draft code of ethics and ethics in the field of public procurement, in response to the provisions of Article 60 of the Presidential Decree of 2010⁵, which was previously repealed on the regulation of public procurement. This draft was distinguished by the inclusion of advanced and important provisions aimed at enhancing integrity and transparency in public contracting processes. One of the most prominent provisions of the draft is the dedication of Article III to the basic principles to which the parties

¹ Ammar Boudiaf, *Explanation of the Organization of Public Transactions*, Jusoor for Publishing and Distribution, Algeria, Edition 03, 2011, p. 08.

² Saeed Moghaddam, *The Public Service between Development and Transformation from the Perspective of Human Resources Management and Professional Ethics*, op. cit., p. 300

³ See Presidential Decree No. 10-236 of 07/10/2010 Regulating Public Procurement No. 58 of 07/10/2010

⁴ See Article 88 of the Regulation of Public Procurement and Public Utility Mandates, Presidential Decree No. 247-15 of 16/09/2015 Regulating Public Procurement and Public Utility Mandates, Presidential Decree No. 50 of 20/09/2015.

⁵ See Article 02 of the draft Code of Ethics and Ethics in the Field of Public Procurement, National Authority for the Prevention and Combating of Corruption, Algeria, without mentioning the date of publication, p. 01.

dealing in the execution of public procurement are committed. Among these principles, the principle of separation of tasks comes as a fundamental pillar, while exercising the specific powers of both the Envelope Opening Committee and the Bidding Evaluation Committee, as stipulated in Articles 120 and 125 of the Public Procurement Regulation for 2010, which were later abolished.¹ However, it can be noted that this provision has lost its relevance after the issuance of the Public Procurement Regulation and Public Utility Authorizations, which came into effect in 2015. The new amendment to this regulation merged the functions of the two committees into a single committee, called the Envelope Opening and Bidding Committee, which raised questions about the consistency of the presentation of these principles with the current regulatory framework. However, the project remains a critical step towards improving professional practices and ensuring better governance in the management of public procurement in accordance with the highest standards of ethics and transparency.

One of the basic principles to be emphasized is the principle of protecting public officials working in the preparation, conclusion and execution of public procurement from all forms of pressure and aggression. This principle also includes the provision of protection to them in the event that they are subject to judicial prosecution in the course of or because of the performance of their duties². The draft acknowledges reference to the provisions relating to the General Basic Law of the Public Service in this context, while emphasizing the need to preserve the dignity of these officials. In addition, the draft law relied on the content of article 03 of the Law on the Prevention and Combating of Corruption to strengthen this protection and ensure the complementarity of the relevant legal texts.³

In addition to the aforementioned principles, other equally important principles were emphasized, related to the need to avoid conflicts in the field of public procurement and to avoid conflicts of interest. In this context, an employee who undertakes tasks in the process of concluding a public transaction is required to temporarily refrain from performing any task related to the transaction in which a conflict of interest⁴ arises. Article 03 of this draft also stipulates a number of other principles⁵, including the need for the intervening agents to be highly professional, to respect the principle of transparency in the performance of their duties, in addition to guaranteeing the right of contractors to benefit from all available appeal mechanisms when submitting their bids for deals.

The provisions of the draft deal with important principles, reinforced by basic rules in articles 04 to 06, where they focused on the independence of the employee in the performance of his duties related to public procurement, while stressing the need for him to adhere to professional

¹ See Article 160 et seq., Regulation of Public Procurement and Public Utility Mandates, Presidential Decree No. 15-247 of 16/09/2015 Regulating Public Procurement and Public Utility Mandates, Presidential Decree No. 50 of 20/09/2015.

² See Article 30 and Article 31 of Decree No. 03/06 of 15/07/2006 containing the General Basic Law of the Public Service, GJDS, No. 46, issued on 16/07/2006.

³ Article 03, paragraph 03, of the Law on the Prevention and Combating of Corruption stipulates that "adequate remuneration for the public servant shall be guaranteed in addition to adequate compensation.

⁴ Ahsan Bouskaia, Al-Wajeez in the Special Penal Code, Corruption Crimes - Financial and Business Crimes - Forgery Crimes, vol. 02, Dar Houma, Algeria, 13th edition, 2013, p. 150.

⁵ See Article 03 of the draft Code of Ethics and Ethics in the Field of Public Procurement (op. cit.), p. 03.

conscience, reservation and professional confidentiality. Particular importance was also attached to the issue of separation of functions and the embodiment of the principle of incompatibility. In this context, article 07 of the draft law clearly indicates the need to avoid assigning two opposing tasks to the public service, as it may not prepare a draft term sheet and evaluate proposals associated with the same book. This is because performing these two roles at the same time may affect its impartiality and independence, which may negatively impact the quality of the bids in an objective and proper manner.

After the presentation of the draft that combines the aforementioned principles and rules, the text of Article ¹14 focused on enhancing transparency and fairness in the awarding of public procurements, where the need to avoid the public aid falling into the granting of the transaction at unfair prices that unjustly meet the interests of a specific party. This article served as a guarantee to achieve a balance between the public interest and the protection of resources from abuses. At the end of the provisions of this draft, article 16 is dedicated to dealing with the penalties that can be applied in the event that the public aid violates the controls stipulated in the code. The text of this article comes to emphasize that in the event that any public official violates the procedures established for the conclusion of public procurements, the disciplinary penalties prescribed under the provisions of the General Basic Law of the Public Service shall be consulted. Furthermore, it was pointed out that the legal provisions relating to the prevention of corruption and combating its manifestations could be applied when necessary. These sanctions came as part of a control system aimed at promoting integrity and ensuring respect for applicable laws in the interest of preserving public funds and protecting transaction processes from any form of corruption or illegal exploitation.

In this context, it can be noted that the reference to the application of the provisions of the General Basic Law of the Public Service in its disciplinary aspect has been limited, despite the fact that not all public officials are subject to the same legislation, as the legal texts governing them vary according to the nature of the facility in which they work, the activity they practice, or the nature of the institution to which they belong. This is clearly evident in the regulation of public procurement and the management of public utility authorizations, where Article 6 of the provisions for the regulation of public procurement requires the legal persons mentioned therein to be compulsory subject to these provisions when concluding any transaction.

¹ Article 14 of the draft Code of Ethics and Professional Ethics relating to public procurement clarifies the various situations and situations that may lead to the awarding of a transaction to a contractor at unreasonable or exaggerated prices. These include inadequate preparation and organization of the transaction process, as well as the lack of professionalism required by the public officials in charge of the process. The text also highlights the poor quality of the Condition Book Draft, which may affect the integrity of the process. Among other problems addressed in the article, the pre-direction of the transaction is noted through the content of the Term Book with the aim of unfairly awarding it to a particular contractor. In addition, there is a weakness in the evaluation and evaluation of bids submitted by contractors, which leads to improper decisions. The text also referred to allowing illegal understandings between the contractors, with the aim of enabling one of them to obtain the deal according to conditions that serve his personal interests. Finally, there is a problem with the weak mechanism for dealing with appeals submitted by contractors, which limits the chances of correcting abuses and ensuring transparency in the procedures for concluding deals. See the draft code of ethics and ethics in the field of public procurement, op. cit., p. 07.

In this context, we find that public institutions that are subject to the legislation regulating commercial activity are also called upon to comply with these provisions, especially when they are tasked with carrying out operations that are fully or partially funded by the state or local communities¹, whether permanently or temporarily. It should be noted that the employees of these institutions, whether they are public servants or employees within the broad concept of the term "public servant" established by the Law on the Prevention and Combating of Corruption, enjoy a different status from those of the traditional public service in this regard. These persons are not subject to the provisions of the General Basic Law of the Public Service, which means that the disciplinary penalties prescribed for professional errors related to violations of the provisions contained in the draft Code of Ethics and Ethics of Public Officials in the field of public procurement cannot be applied against them. This disparity in legal submission raises many problems, especially with regard to how to hold different categories of public officials or employees accountable for their transgressions related to the field of public procurement, which requires a careful and comprehensive review of the unification of legal frameworks and the regulation of the relationship between the various institutions and their agents in order to ensure the achievement of effectiveness and transparency in public administration.

Although it is critical to develop a comprehensive code of ethics and ethics in this field, no concrete steps have been taken towards its formal preparation and release. Instead, it was limited to a draft code developed by the National Authority for the Prevention and Combating of Corruption, which called for intensified efforts to implement this project in practice. To achieve this, strict and binding rules must be established to apply to public officials involved in the various stages of the implementation of public procurement. In this context, it should be noted that the codes of conduct for public officials in the areas of public service and public procurement impose seemingly comprehensive obligations on these officials. However, there are other categories of employees with a specialized nature of work that also require the inclusion of codes that are in line with their specificities, to ensure that the ethical aspects of all parties involved are addressed.

Second: Codes of Conduct and Professional Ethics for Some Job Categories.

Despite the absence of a comprehensive code of conduct and professional ethics in the field of the public service as a whole, some professional groups have benefited from the promulgation of their own codes. Some of these employees are generally subject to the General Organic Law of the Public Service, as well as specific statutes regulating their duties in particular, such as customs officers and employees of the General Directorate of Taxation. On the other hand, there are other categories that are not already subject to the provisions of the General Basic Law of the Public Service, such as the judiciary.²

¹ See Article 06 of the Regulation of Public Procurement and Public Utility Mandates, Presidential Decree No. 247-15 of 16/09/2015 Regulating Public Procurement and Public Utility Mandates, Presidential Decree No. 50 of 20/09/2015

² See Decree No. 03/06 of 15/07/2006 containing the General Basic Law of the Public Service, G.R.G.D.S., No. 46, issued on 16.07.2006.

1- Code of Ethics for Judges

The establishment of a code of ethics for the profession of judges was stipulated within the text of Article 12 of the aforementioned law, but before that, the Basic Law for Judges included in Article 64 of the Code stipulating the development of this code,¹ as it indicated that this code specifies other professional errors.

The Code of Ethics for the Judicial Profession, which was approved by the Supreme Judicial Council during its regular session held on December 23, 2006, contains a set of basic principles that oblige the judge to abide by, which are essentially principles of a constitutional nature. At the top of these principles is the principle of the independence of the judiciary enshrined in the first paragraph of article 156 of the constitution, which affirms that: "The judiciary is independent and exercised within the framework of the law." In addition, the principles of criminal legality and equality of litigants before the judiciary are the solid basis on which the professional obligations of the judge are based, as stated in the Code itself. In accordance with those obligations, it is imperative for the judge to uphold the principle of impartiality and absolute objectivity, while refraining from accepting any form of interference or influence in the performance of his or her work, regardless of its source. These values are not merely recommendations, but are essential pillars for the establishment of justice and the impartiality of the judicial work.

Tightening adherence to these controls is a critical response to integrity requirements and to protect the judicial system from distortions that could undermine its credibility. These codes of conduct are part of ongoing efforts to strengthen anti-corruption measures, as they are based on clear legal provisions, most notably article 12 of the Law on the Prevention and Combating of Corruption. In this context, the Code attaches particular importance to the crime of bribery, which is one of the most prominent and most threatening aspects of corruption. In this spirit, the rules contained in the Code urge judges to commit themselves to adjudicating cases before them as soon as possible, as delays and delays in the issuance of judgments may open the door to increased opportunities for the provision of illegitimate advantages and benefits.

Furthermore, these rules emphasize the importance of the judge avoiding suspicions of all kinds, and imposing that he should refrain from accepting gifts from litigants, regardless of their form or nature. Clear directives are also contained in the fifth paragraph of section three² of the Code, which obliges the judge to step down immediately after he has entered into any relationship with the parties to the dispute, or if he has a direct or indirect interest in the case before him, whether the interest is material or moral. This preventive measure is aimed at avoiding conflicts of interest that may weaken the community's confidence in the judicial system.

In addition to the legal obligations contained in the Code, a prominent section is devoted to defining the behaviours to be followed by a judge under the heading "Judge Conduct". These

¹ Organic Law No. 11/04 of 06/09/2004 containing the Basic Law of the Judiciary, G.R.G.D., No. 57, issued on 08/09/2004.

² Code of Ethics for Judges, Section 03 entitled "Judge Conduct", paragraphs 12 and 08 respectively, Issue No. 17 of 14/03/2007.

include the commitment to prudence in the management of cases, the balance in making decisions, in addition to guaranteeing the rights of the defense and protecting the confidentiality of judicial proceedings to ensure the integrity of the judicial process. It also emphasizes the importance of the judge stepping down from any case in which he has a connection with a party or a personal interest, and the need to transcend the use of the position for personal purposes. These directives also include the duty to reject gifts of any appearance or value, and not to be influenced by any external pressures or influences, while taking care to take all possible measures to avoid falling under suspicion. These behaviors and obligations are not merely formal instructions, but are an integral part of the requirements of the judicial function, which is fundamentally based on integrity and justice as essential pillars in building trust between the judiciary and society.

It can be said that the rules of ethics of the judicial profession have formed a basic framework for ensuring the integrity and proper functioning of the judge, as they include principles and rules of great importance that support and strengthen the texts contained in the Basic Law of the Judiciary. However, although article 64 of the Organic Law of Judges refers to the need to identify other professional errors within the Code of Professional Ethics, this Code, although it contains a set of important principles, does not clearly and explicitly address what the article referred to as "other professional errors". The Code concludes by listing the behaviors that a judge must adhere to, but does not explicitly state that violating such behaviors is professional errors that require appropriate disciplinary sanctions.

2- Code of Ethics for Employees of the General Directorate of Taxation.

If judges are not explicitly subject to the provisions of the General Basic Law of the Public Service, the situation is quite different for some other categories of public servants. In addition to being subject to the provisions of the General Basic Law, these employees are also subject to basic laws specific to their employment status, and their own codes of conduct have been prepared reflecting the nature and specificity of their work. Among these prominent codes is the Code of Ethics and Conduct for employees of the General Directorate of Taxation. The General Directorate of Taxation, affiliated to the Ministry of Finance, initiated the publication of this code in 2009 under the title "Manual of Professional Ethics for Employees of the General Directorate of Taxation.

This manual contained a set of rules of great importance, as it mainly aims to promote the prevention of corruption and encourage good behavior within the work. The manual included a set of rules of conduct that were detailed within its various sections. In the first section, entitled "Rules of Professional Ethics", the focus was on defining the duties dictated by the exercise of public office. This section has been divided into two chapters: the first deals with the general duties of the exercise of the job and the work of the employees of the General Directorate of Taxation, and the second deals with the general rules that must be observed during the performance of service. The second chapter is devoted to the rules of liability in all its forms, whether civil, disciplinary or penal. This section contains clear provisions to inform the employees of the General Directorate of Taxes about their responsibilities and the obligations they bear, with particular emphasis on the penal responsibilities associated with corruption crimes and how to prevent them. Through this framework, the Code of Ethics aims

to provide a reference that regulates the relationship between employees and their responsibilities on the one hand, and sets clear boundaries on professional conduct that enhances the credibility of the organization and protects it from any suspicion of corruption or abuse of power on the other. This approach emphasizes the pivotal role that ethics plays in improving performance and ensuring transparency and integrity in public institutions.

It can be noted that this code, which has been described as a guide, included a set of important rules aimed at enabling this category of employees to perform their duties effectively and without any suspicions that may harm their reputation or the reputation of the Authority. These rules were also based on the legislative texts regulating civil and disciplinary liability under the General Basic Law of the Public Service. In addition, the rules deal with criminal responsibility as stipulated in the Penal Code, dealing with crimes such as abuse of power against public property, and the exercise of public power before it is illegally assumed or continued. The Code also referred to some of the crimes stipulated in the Law on the Prevention and Combating of Corruption, in order to enhance transparency and integrity in the performance of public office.

In this regard, it can be noted that the rules on criminal liability, although important in raising the employee's awareness of the crimes he may commit during or because of the exercise of his or her job, and the specific penalties that they may consequent, are a positive and commendable step that contributes to the achievement of the objectives of the Code, but they suffer from some shortcomings. Crimes of no less importance than those included in the framework of corruption-related crimes were not addressed. For example, the offence of conflict of interest provided for in article 34 of the Law on the Prevention and Combating of Corruption, as well as the crime of obtaining interest by illegal means provided for in article 36, in addition to condoning the crime of receiving gifts under article 38 of the same law, was absent. In addition, the wording of some of the offences listed in the Code had been amended to use the term "tax aid" instead of "public official", an amendment that would have been desirable to avoid while retaining the original texts as contained in the Law on the Prevention and Combating of Corruption. Similarly, with regard to the crime of bribery of public aid, a specific example was given in which the tax aid had corrected an error discovered during the control process, which might reduce the comprehensiveness of the text, unlike the wording of the crime of bribery of a public servant, which was contained in general texts without specifying specific examples. These amendments may weaken the overarching framework that was necessary to confront all forms of corruption equally.¹

3- Code of Ethics for Customs Officers.

In addition to the aforementioned code, there is another code that is no less important in terms of content and specificity, as it is concerned with the category of customs officials. This code was characterized by the establishment of exceptional rules that focused mainly on the prevention of bribery, including the allocation of clear provisions dealing with criminal offences, based on the extreme sensitivity of the work of the Customs Administration. In this

¹ Moussa Boudhane, *The Legal System for Combating Bribery in Algeria*, Dar al-Huda Ain Melilla, TBR, 2010, p. 177.

context, the Code stressed that the failure of staff members belonging to this category to comply with its requirements is an aggravating circumstance of responsibility. The Code also obliges these employees to report to their immediate superiors any bribery attempt that comes to their knowledge or targets them personally, stressing the obligation to reject offers made to them in the course of their duties. The inclusion of these rules in the Code of Ethics for Customs Officials complements the regulatory framework to which this category of public servants is subject. It has already been pointed out that the Organic Law on Personnel Employed in the Customs Administration's Wires contains similar provisions. In the first stage, article 25 stipulates in its first paragraph that customs officials must respect the rules of professional ethics. In the second stage, they are prohibited from soliciting, demanding or accepting any gifts, gifts, rewards or benefits of any kind in exchange for services performed in the course of their duties.

Conclusion

The importance of developing codes of conduct for public officials and codes of professional ethics has been emphasized in international anti-corruption conventions, in their various classifications, as well as in national legislation, in particular the Law on the Prevention and Combating of Corruption. These codes aim to define rules and standards of behavior on which employees are based while performing their duties properly, helping them avoid inappropriate behaviors and wrong behaviors. These codes also include principles that support integrity and promote good behavior, to ensure that the dignity of the employee and the status of the public office are maintained at the same time.

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