

Overall Score:

**54 - Very Weak**

Legal Framework Score:

**67 - Weak**

Actual Implementation Score:

**37 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

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## 1.1. <sup>43</sup>Anti-Corruption Non-Governmental Organizations

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### 1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

No

**Comments:**

Specifically, Article 43 of the Constitution states: "The right to create associations is guaranteed. The state encourages the development of associative movement."

There is no such specific statement in the 2008 Constitution.

We have, for instance: l'Association algérienne de lutte contre la corruption (AACC), which is an NGO focused on anti-corruption practices.

**References:**

Article 43 of the Constitution.

**Yes:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history

of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**No:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | **No**

**Comments:**

The No answer is based on the law which regulates funding of associations.

The answer to this question can be divided in two parts:

1. The first part relates to the funding from abroad (foreign aid), which is not allowed.
2. However, domestically it is possible to receive funds. Usually, the funding is provided by local governments or public institutions but it also can be private funding.

According to the Law on Associations, Law No. 90, Article 28, Chapter 4, deals with financial resources: "Gifts and bequests of associations or organizations shall be admissible only after approval by the competent public authority, which checks the amount of the gift/bequest, its consistency with the purpose of the association's statutes, and the constraints they may raise."

A new Law on Associations was adopted in December 2011. However, as stated by the Euro-Mediterranean Human Rights Network in a December 20 press release, the law is only more repressive: "On the issue of financing, under the pretext of controlling funding from abroad, the new Law reinforces provisions of Law 90-31, which already stipulated that such funding could only become available after obtaining prior approval. Under the legislation adopted by the APN, all funding from outside sources will be barred a priori and will be subject to a cooperation relationship that can only exist if authorized by the authorities."

**References:**

Law on Associations, Law 90-31 of 1990.

Euro-Mediterranean Human Rights Network, Algeria: Adoption of a Repressive Associations Law, December 20, 2011.

International Center for Not-for-profit Law, Algeria Passes New Law on Associations, January 12, 2012, <http://www.icnl.org/news/2012/12-Jan.html>

Magharebia, New Algerian Association Law Faces Criticism, December 16, 2011, [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/12/16/feature-04](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/12/16/feature-04)

**Yes:** A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**No:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

Anti-corruption/good governance NGOs are required to disclose their sources of funding under Law No. 90, Article 28, Chapter 4.

**References:**

Law No. 90, Article 28, Chapter 4, which deals with the status of associations, Official Gazette – Journal Officiel No. 53, Page 13, December 5, 1990.

**Yes:** A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

**No:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are anti-corruption/good governance NGOs able to operate freely?

17

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

This assessment is based on two sources: an academic at the University of Oran who declared that is difficult in practice to engage in such activities, and the academic's statement was confirmed by a couple of representatives of civil society organizations.

**References:**

An academic at the University of Oran who asked to remain anonymous.

A couple of civil society organization representatives who asked to remain anonymous.

**100:** NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

It is difficult for anti-corruption/good governance NGOs to actively engage in the political and policymaking process, several representatives of civil society organizations said. The civil society representatives requested anonymity because they fear for their safety and their positions. For this reason, throughout this scorecard, representatives of Algerian civil society organizations are cited as sources but not identified by name at their request.

A journalist based in Tlemcen confirmed that it is almost impossible for civil society organizations to influence policy making.

Furthermore, representatives of civil society organizations in Tlemcen and interviews with a few academics in the College of Law at the University of Tlemcen also confirmed that civil society organizations can't easily influence policy making. The civil society organization representatives cited hurdles and said that it is dangerous even to try to influence government policy in Algeria.

**References:**

Interviews with several representatives of civil society organizations who asked that they remain anonymous.

A journalist based in Tlemcen who was interviewed on the phone in September 2011.

Interviews with representatives of civil society organizations in Tlemcen in September 2011.

Interviews with a few academics in the College of Law at the University of Tlemcen in September 2011.

**100:** Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

**Comments:**

Interviews with journalists based in Tlemcen and three academics from the College of Law at the University of Tlemcen confirmed that no anti-corruption/good governance organization has been shut down this year or the previous year.

**References:**

Interviews on the phone with journalists based in Tlemcen in September.

Interviews with three academics from the College of Law at the University of Tlemcen in September.

Phone interviews with two representatives of civil society organizations in September.

**Yes:** A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**No:** A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

No

**Comments:**

There were no NGO activists imprisoned because of their work covering corruption.

**References:**

Phone interview with a journalist for the French newspaper La Voie de l'Oranie in September.

Interview with two NGO representatives in Tlemcen in September.

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**No:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

**Comments:**

There were no documented cases of NGO activists covering corruption being assaulted this year or last year.

**References:**

Phone interview with a journalist for the French newspaper La Voie de l'Oranie in September.

Interview with two NGO representatives in Tlemcen in September.

**Yes:** A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**Comments:**

There were no documented cases of NGO activists being killed because of their work covering corruption this year or last year.

**References:**

Interviews with a journalist from Oran for the French newspaper La Voie de l'Oranie and another journalist from El Khabar in Tlemcen.

Interview with two NGO representatives in Tlemcen in September.

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

75

04a. In law, citizens have a right to organize into trade unions.

Yes

No

**Comments:**

According to the Algeria Constitution, “The right to create associations is guaranteed.” To set up a trade union organization, one has to follow the same steps as setting up a political party.

**References:**

Algeria Constitution, Article 43.

**Yes:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**No:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100

75

50

25

0

**Comments:**

The official organization is the General Union of Algerian Workers (UGTA), which is considered a part of the official institutions of the government. UGTA has never raised concerns about the official policies undertaken by the government. So, it can be considered as having a good alliance with officials and government.

It should be said that barriers to organizing trade unions exist — intimidation of all sorts.

The new trade unions set up recently do not enjoy the same status as UGTA and most of the time are put aside when it comes to important discussions or negotiations.

For more information, see Safia Berkouk’s article in El Watan ECONOMIE, dated 26 September to 2 October 2011, entitled: “Syndicats autonomes: Ces éternels exclus de la tripartite!”

**References:**

Phone interview with Safia Berkouk, a journalist from El Watan, in September, about the difficulties of forming trade union organizations.

Phone interview with a couple of NGO representatives in Tlemcen confirmed the difficulties of forming trade union organizations.

**100:** Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## 1.2. Media's Ability to Report on Corruption

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### 5. Are media and free speech protected?

50

05a. In law, freedom of the media is guaranteed.

Yes

**No**

**Comments:**

Although there are restrictions or guidelines, Algerian media is considered as the most liberal in the Arab world. When it comes to coverage of matters of national security, it should be mentioned that all developed countries, including the United States, must abide by the same restrictions.

**References:**

The 2008 Constitution, Article 41: Freedom of expression, association and meeting are guaranteed to the citizen.

**Yes:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

**Yes**

No

**References:**

By law, the freedom of speech is guaranteed. Refers to the same 2008 Constitution which states in Art. 41 – Freedom of expression, association and meeting are guaranteed to the citizens.

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

## 6. Are citizens able to form print media entities?

44

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | **50** | 25 | 0

### Comments:

In El Watan, dated Monday 15 August 2011, in page 7: EVALUATION DE LA SITUATION DES MEDIAS EN ALGERIE – La presse algérienne en deçà des espérances, it is mentioned: “At the domestic level, regulations on publishing print media are widely open and free, but on the ground the state has put hurdles and mechanisms to control everything.”

### References:

El Watan which can be considered as a leading French language newspaper in Algeria. dated: Monday 15 August 2011, in page 7: “EVALUATION DE LA SITUATION DES MEDIAS EN ALGERIE – La presse algérienne en deçà des espérances.”

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

**Yes** | No

### Comments:

This provision can be found in the Algerian legislation: Code de Commerce.

**References:**

Code de commerce.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**No:** A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

An editor of “La Voie de l’Oranie” interviewed in October 2011 and two private investors in Tlemcen – who prefer not to be named – said the process is time consuming and one has to go through several steps that are difficult to satisfy because of bureaucracy and bribes.

Establishing an independent print media organization is perceived as going against the current political power. It is seen as an instrument to be used to criticize the government and that’s not welcome in a context where independent media repeatedly face harassment.

**References:**

Interviews with a journalist from “La Voie de l’Oranie” and two private sector investors who prefer to be anonymous.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Very costly but not a deterrent.

The media get subsidies from the government.

This statement is based on two main sources:

1. La Loi 90-07 relative à l'information
2. El Watan dated Monday August 15, 2011, page 7.

**References:**

Interview with the editor in chief: "La Voie de l'Oranie" in October who confirmed the level.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

25

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | **50** | 25 | 0

**Comments:**

The law in this regard is about to change and a new draft is expected this year according to representatives from the media.

We can read also: El Watan – Jeudi 15 septembre 2011 – page 5.

**References:**

This statement is based on two sources:

1. El Watan – Jeudi 15 septembre 2011 – page 5
2. Two journalists I talked to on the phone in September: One is based in Algiers and work with El Khabar (Arabic language) and the other one is from Oran: "La Voie de l'Oranie".

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may

occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | **No**

**Comments:**

The new draft is still to be disclosed by the government.

**References:**

Based on my desk research and interviews with journalists: El Khabar, La Voie de l'Oranie and El Watan in September. The content of the new draft is still under discussion and the details have not been released.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**No:** A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Since the draft has not been disclosed it is very difficult to assess, or to have a precise idea on the time required.

But according to our sources, it will require a certain time and certainly less than one year to get the license.

**References:**

Phone interview with three journalists (print media): one from Tlemcen, the second from Oran and the third from Algiers.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The draft has not been published and it is difficult to guess or to have an idea how much it will cost.

**References:**

Interview in September with three journalists, who preferred not to be named, (print media): one from Tlemcen, the second from Oran and the third from Algiers.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

100

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

Absolutely free to anyone to access this network.

**References:**

Phone interview with sources who requested anonymity:

1. A representative from CERIST which is an Internet provider;
2. Ten academics from: University of Tlemcen, Oran, Sidi Bel Abbès, Algiers, Setif, Annaba, Tizi-Ouzou, Biskra, Adrar;

3. Three NGO representatives based in Tlemcen, Oran and Algiers;
4. Four journalists based in Oran, Tlemcen, and Algiers.

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

Absolutely free.

**References:**

Phone interview in September with sources who requested anonymity:

1. A representative from CERIST which is an Internet provider;
2. Ten academics from: University of Tlemcen, Oran, Sidi Bel Abbès, Algiers, Setif, Annaba, Tizi-Ouzou, Biskra, Adrar;
3. Three NGO representatives based in Tlemcen, Oran and Algiers;
4. Four journalists based in: Oran, Tlemcen, and Algiers.

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

## 9. Are the media able to report on corruption?

67

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

No

### Comments:

Recently, the Energy Minister has been accused of corruption by the press and media without any retaliation from the government.

### References:

Law 90-07 on the media.

**Yes:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**No:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100

75

50

25

0

### Comments:

There is no official or explicit restriction on reporting corruption-related issues. However, the government makes it difficult to obtain a free report by the media. For example, government media is favored when it comes to allocating resources from the advertisements.

### References:

Interview with a journalist who preferred not to be named and participated in an investigation on corruption at newspaper El Watan (cited below).

El Watan Economie du 27 décembre 2011 au 2 janvier 2011 – Dossier 7: “La corruption gangrène l’économie nationale” (copy of a portion of the report available in <http://www.algerie-dz.com/forums/archive/index.php/t-192086.html>).

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | **50** | 25 | 0

**Comments:**

We might have a look at the recent publication by El Wata, dated October 23, 2011 in page 11: Procès Oultache – Dix ans de prison requis par le procureur – This man, Oultache, a very senior civil servant at “Direction générale de la Sureté nationale,” has been accused of corruption. The story has been extensively reported by the private media and the public media (Agence Presse Service – APS).

**References:**

Phone interview with sources who requested anonymity:

1. Two academics from law college at the University of Tlemcen confirmed the statement;
2. Three NGO representatives: one in Tlemcen and two based in Oran;
3. Five journalists: Tlemcen, Oran, Sidi Bel Abbès, Algiers.

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?

70

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

**References:**

See Law N°06-01 on the Prevention and the Fight against Corruption.

**Yes:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

Law 90-07 dated April 3, 1990 on the media. Official Gazette N°14 dated April 4, 1990 in its article 18.

**References:**

Law 90-07 dated April 3, 1990 on the media. Official Gazette N°14 dated April 4, 1990 in its article 18.

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

**Comments:**

Not all newsrooms abide by a formal journalistic code of conduct. There is a formal code, but in practice it is rarely respected.

**References:**

Two main source of references for the score:

1. A report published by the newspaper El Watan dated Monday 15th August, 2011, page 7. ETHIQUE ET MEDIAS: "Il existe bien une structure d'autorégulation mise en place par les médias, mais elle n'est pas opérationnelle".

2. This view is also shared by three journalists who requested anonymity (one from Tlemcen the second from Oran and the third from Algiers) with whom I spoke on the phone in September 2011.

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to “sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | **50** | 25 | 0

**Comments:**

The respondents interviewed for this indicator all agreed that during the last election in Algeria they had witnessed bias in coverage in favor of the incumbent president.

**References:**

Interviews with five academics at the law college – University of Tlemcen in September 2011. Anonymity was requested.

Interviews with four NGO representatives based in Tlemcen and Algiers in September 2011.

Interviews with 10 journalists in September 2011, from El Khabar, Achaab, La Tribune, El Watan, Liberté, La Voie de l’Oranie, Le Quotidien d’Oran, El hadaf, and Echourouk.

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

According to my sources I spoke with recently, the bias exists and it was in favor of the actual elected president without any doubt.

**References:**

Phone interview in September (anonymity was requested):

1. Four academics at the Faculty of Law – University of Tlemcen.
2. NGO Representatives from Tlemcen and Algiers.
3. Five journalists: La Voie de l’Oranie, El Khabar, Echourouk, El Watan, Le Quotidien d’Oran.

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

---

## 11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

**Comments:**

No prison sentences have been pronounced recently for journalists, but some have been given fines.

**References:**

Interview in September with journalists who request anonymity.

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**No:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes | No

**Comments:**

No such cases have been reported, according to my sources.

**References:**

Phone interview with sources who requested to be anonymous.

1. NGO representatives from Tlemcen.
2. Three journalists from Tlemcen , Oran and Algiers.

**Yes:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes | No

**Comments:**

No such cases for this year or the previous year, according to media representatives.

**References:**

Statement confirmed by three journalists interviewed on the phone in September 2011: one is from Tlemcen (El Watan), the second from La Voie de l'Oranie and the third from (Echourrouk) Algiers.

The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**No:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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65  
1.3. Public Requests for Government Information

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12. Do citizens have a legal right to request information?

0

12a. In law, citizens have a right to request government information and basic government records.

Yes | **No**

**Comments:**

There is no such right identified in the Constitution or legal text.

**References:**

Interview with three academics at the College of Law at the University of Tlemcen who confirmed the situation. (The interviewees requested to be anonymous.)

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**No:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | **No**

**References:**

It does not exist since the answer to the previous question was NO.

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**No:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | **No**

**Comments:**

There is no such provision.

**References:**

There is no such provision, according to three academics interviewed in September at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**No:** A NO score is earned if there is no such formal mechanism or institution.

---

### 13. Is the right to information requests effective?

0

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

There is no such provision according to three academics at the College of Law – University of Tlemcen, interviewed in September in my office.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such provision, according to three academics at the College of Law – University of Tlemcen interviewed in September in my office.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such provision.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such provision.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such provision.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such provision.

**References:**

Interview in September with three academics at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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Category 2. Elections

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2.1. <sup>45</sup>Voting and Party Formation

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## 14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes | No

### References:

By Constitution 2008. Cf. Article 50.

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**No:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes | No

### References:

By Constitution. Presidential elections are held regularly every 5 years, Art. 74.

**Yes:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**No:** A NO score is earned if no such framework exists.

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## 15. Can all citizens exercise their right to vote?

100

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

No evidence or reports of obstacles to the exercise of this right were found.

**References:**

Interview in September with four academics at the College of Law – University of Tlemcen, who requested anonymity.

Interview with three journalists from El Khabar, El Watan, El Moudjahid.

Interview with three NGO representatives.

A government official, in charge of the vote at the local government in Tlemcen, and he confirmed the vote of all adult citizens.

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

The ballot is entirely secret.

**References:**

Phone interview in September with sources who requested anonymity:

1. Three academics at the College of Law.
2. Three NGO representatives.
3. Five journalists: El Watan, El Khabar, Le Quotidien d'Oran, La Voie de l'Oranie.

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

That was the case in the last presidential election: Every five years presidential elections are held, according the Constitution in its Art. 74.

**References:**

Phone interview in September with sources who requested anonymity:

1. Three academics at the College of Law at the University of Tlemcen.
2. Three NGO representatives.
3. Five journalists: El Watan, El Khabar, Le Quotidien d'Oran, La Voie de l'Oranie.

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

## 16. Are citizens able to participate equally in the political process?

50

16a. In law, all citizens have a right to form political parties.

Yes | No

**References:**

According to the 2008 Constitution in its articles 41 and 42.

**Yes:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**No:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

Yes | No

**References:**

By Constitution, Articles 50 and 51.

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**No:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

“Six représentants des formations en attente de leurs agréments à savoir celui de Front pour la justice et le développement (FJD), l’Union pour la démocratie et la République (UDR), le Hizb El Fejr El Jadid, le Parti pour la liberté et la justice (PLJ), le Front du changement national (FCN) et le Front pour Algérie nouvelle (FAN).”

**References:**

<http://www.echoroukonline.com/fra/actualite/12107-les-nouveaux-partis-politiques-non-agrees-au-forum-echorouk-bouteflika-vos-reformes-politiques-sont-en-danger.html>

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties’ political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | **50** | 25 | 0

**Comments:**

All my sources confirmed the level is rather low because of various hurdles –financial, political, bureaucratic, etc.

**References:**

Interview with three academics college of Law – University of Tlemcen.

Interview with three NGO representatives from Tlemcen and Algiers.

Interview with ten Journalists from Tlemcen, Oran, Algiers.

The interviewees requested to be anonymous.

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | **0**

**Comments:**

Not very effective and their representation is rather symbolic, according to my sources.

RCD: Rassemblement pour la Culture et le Développement

FFS: Front des Forces Socialistes

These are two parties of the opposition.

**References:**

Interview in September with sources who requested their names be anonymous.

1. Three academics met at the College of Law – University of Tlemcen.
2. Three NGO representatives met in Tlemcen and Algiers.
3. Five journalists interviewed on the phone: El Khabar, El Watan, Le Quotidien d'Oran, La Voie de l'Oranie.

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## 2.2. Election Integrity

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17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

0

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes

**No**

**Comments:**

It is a draft.

**References:**

<http://www.elmoudjahid.com/fr/actualites/16992>

<http://www.aps.dz/Une-commission-nationale-de.html>

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

---

## 18. Is the election monitoring agency effective?

20

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes | **No**

**Comments:**

The Election Monitoring Commission operates under the supervision of the Executive. The President has authority to designate and approve the members and the head of the commission.

**References:**

Interview with three academics at the Faculty of Law at the University of Tlemcen. The interviewees requested to be anonymous.

See also: <http://www.aps.dz/Les-deputes-de-l-APN-plaident-pour.html>

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | **0**

**Comments:**

All my sources are very doubtful about the full independence of the agency. The designation is highly administrative and in accordance with allegiance criteria.

**References:**

The interviewees requested to be anonymous. Interviews conducted in September.

Interview with two academics at the College of Law – University of Tlemcen.

Interview with two NGO representatives from Oran and Algiers.

Interview with five journalists from Tlemcen, Oran, and Algiers.

For a real history we might want to look at this source: [http://www.algeria-watch.org/fr/article/analyse/aya\\_elections.htm](http://www.algeria-watch.org/fr/article/analyse/aya_elections.htm)

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | **25** | 0

**Comments:**

Because a temporary commission was established by presidential decree and therefore politicized, the commission was not sufficiently staffed with professionals.

**References:**

Interview with an academic at the Faculty of Law – University of Tlemcen who requested anonymity.

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

It is up to the Conseil Constitutionnel when it is a presidential election.

**References:**

Interview in September with sources who requested anonymity.

1. Three academics at the college of Law – University of Tlemcen.
2. Two journalists: Liberté and La Voie de l'Oranie.

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency does not effectively penalize offenders as this was not the case for the last presidential election.

**References:**

Interview in September with three academics from the College of Law – University of Tlemcen.

The interviewees requested to be anonymous.

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

---

## 19. Are elections systems transparent and effective?

38

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | **50** | 25 | 0

**Comments:**

There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

But, at the same time, government may routinely falsify registration lists to affect voting patterns. Double voting and “ghost” voting by non-existent voters is common.

**References:**

Interview in September with sources who requested to be anonymous.

1. I spoke with two local government officials: Tlemcen District.
2. Two academics were also interviewed.
3. Three NGO representatives from Tlemcen, Oran and Algiers.
4. Two journalists from La Voie de l’Oranie and El Watan were also interviewed.

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and “ghost” voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes | **No**

**References:**

There is no Constitution provision for such a case according to two sources at the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**No:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | **0**

**Comments:**

The electoral appeals mechanism never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

**References:**

Interview with sources who requested to be anonymous.

1. Two academics from the College of Law – University of Tlemcen.
2. Three NGO representatives from Tlemcen, Oran and Algiers.
3. Four journalists: La Voie de l'Oranie, La Tribune, El Watan, Echourouk.

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**Comments:**

It is a very difficult question, because it cannot be documented with written facts. The score is based on the sources approached for the interview.

**References:**

Interviews conducted in September. The interviewees requested to be anonymous.

Interview with two academics from the college of Law – University of Tlemcen.

Interview with two NGO representatives: Tlemcen and Algiers.

Interview with five journalists: El Watan, El Khabar, La Voie de l'Oranie, Echourouk, La Tribune, Liberté.

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

**Comments:**

There is a provision on the monitoring of the electoral process by domestic or international election observers.

**References:**

"Projet de loi organique relative au régime électoral," published in El Moudjahid dated 09-21-2011. The paper is signed by Houria Akram.

**Yes:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**No:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

Most of the time they monitor only polling stations in big cities and safe districts. They are not taken to the popular places where they can see something else.

**References:**

Interview in September with sources who requested to be anonymous.

1. Three academics from the College of Law – University of Tlemcen.
2. Two NGO representatives: Tlemcen and Algiers.
3. Five journalists: La Voie de l’Oranie, La Tribune, Echourouk, Liberté, El Watan.

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers’ activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers’ movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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19  
2.3. Political Financing Transparency

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20. Are there regulations governing the financing of political parties?

83

20a. In law, there are limits on individual donations to political parties.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 33.

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 33.

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes | No

**References:**

The limits on total political party expenditures are not mentioned in the law: Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24.

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**No:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 34.

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 34.

Cf. also, <http://www.joradp.dz/TRV/FElect.pdf>

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

**Comments:**

Audit Court, Inspection Générale des Finances are the most prominent.

Order N° 97-09 dated 1997 Journal Officiel N° 12, March 1997, page 24 – articles 27 to 33.

**References:**

Interview with two academics at the College of Law – University of Adrar who requested their names be anonymous.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 21. Are there regulations governing the financing of individual political candidates?

100

21a. In law, there are limits on individual donations to political candidates.

Yes

No

**References:**

We are talking about PARTIES not candidates. Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 33.

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes

No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 33.

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 33.

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

**References:**

Cf. Order N° 97-09 dated 1997 and published in the Official Journal N°12, March 1997, page 24, particularly Art. 27 through 35.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | No

**References:**

Audit Court is La Cour des comptes.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 22. Are the regulations governing the political financing of parties effective?

17

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

No evidence available to conclude on such cases. There is a lack of transparency on this issue.

**References:**

Interviews with:

1. Two NGO representatives: Tlemcen, Oran, Algiers.
2. Three journalists: Algiers, Oran, Tlemcen.
3. Four private sector representatives from Tlemcen.

Interviewees requested anonymity.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Cf; Article 189 Code Electoral – 2007.

**References:**

Interviews in September with the following:

Interview with two NGO representatives: Tlemcen, Oran, Algiers.

Interview with three journalists: Algiers, Oran, Tlemcen.

Interview with four private sector representatives from Tlemcen.

The interviewees requested their names be anonymous.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**References:**

Interviews conducted in September. Interviewees requested their names be anonymous.

Interview with two NGO representatives: Tlemcen, Oran, Algiers.

Interview with three journalists: Algiers, Oran, Tlemcen.

Interview with four private sector representatives from Tlemcen.

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no published reports on that issue.

**References:**

Interview in September with the following:

1. Two NGO representatives: Tlemcen, Oran, Algiers.
2. Three journalists: Algiers, Oran, Tlemcen.

The interviewees requested their names be anonymous.

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

No published reports on those issues.

**References:**

Interview in September with sources who requested anonymity.

1. Two NGO representatives: Tlemcen, Oran, Algiers.

2. Three journalists: Algiers, Oran, Tlemcen.

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Political parties can be audited, according to the law and some experts.

**References:**

Interview with two academics from the College of Law – University of Tlemcen.

Interview with three media representatives: La voie de l'Oranie, El Khabar, Le Quotidien d'Oran.

The interviewees requested their names be anonymous.

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

### Comments:

The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system.

There are no limits as such according to the sources consulted recently, September 2011.

### References:

Interviews conducted in September. The interviewees requested their names be anonymous.

Interview with three academics at the College of Law – University of Tlemcen.

Interview with three NGO representatives: Tlemcen, Oran, Biskra.

Interview with five journalists: La Voie de l'Oranie, La Tribune.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

The majority of corporate contributions to individual candidates are made outside of the formal limitation system.

**References:**

The interviewees requested their names be anonymous.

Interview with two academics from the College of Law – University of Tlemcen.

Interview with three NGO representatives: Tlemcen,, Biskra, Ouargla.

Interview with five journalists: LA Voie de l'Oranie, El Watan, Liberté.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

The interviewees requested their names be anonymous.

Interview with two academics from the College of Law – University of Tlemcen.

Interview with three NGO representatives: Adrar, Biskra, Annaba.

Interview with five journalists: La Voie de l'Oranie, El Watan Liberté.

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

This case has not been reported, according to various sources of information consulted in September.

**References:**

Interview with three academics at the College of Law – University of Tlemcen.

Interview with three NGO representatives: Tlemcen Biskra, Adrar.

Interview with five journalists from: Liberté, La Voie de l'Oranie.

The interviewees requested their names be anonymous.

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports available to comment, according to media representatives consulted in September.

**References:**

Interview with sources who requested their names be anonymous.

1. Two academics at the College of Law – University of Tlemcen.
2. One NGO representative in Tlemcen.
3. Two journalists: La Voie de l’Oranie, Liberté.

**100:** The finances of individual candidates’ campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates’ campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates’ campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 24. Can citizens access records related to the financing of political parties?

0

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents or reports on such situations are available to make conclusions, according to media representatives, academics and NGOs consulted in September.

**References:**

The interviewees requested their names be anonymous.

Interview with one academic at the College of Law – University of Tlemcen.

Interview with two NGO representatives: Tlemcen, Biskra.

Interview with five journalists: Liberté, La Voie de l'Oranie.

**100:** Political parties disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents available or reports on such situations to make conclusions, according to my sources of information: journalists and NGO representatives consulted in September.

**References:**

The interviewees requested their names be anonymous.

Interview with two academics at the College of Law – University of Tlemcen.

Interview with two NGO representatives: Biskra, Tlemcen.

Interview with five journalists: La Voie de l'Oranie, Liberté, El Watan.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents available or reports on such situations to make conclusions, according to media and NGO representatives consulted in September 2011.

**References:**

The interviewees requested their names be anonymous.

Interview with two academics at the College of Law – University of Tlemcen

Interview with two NGO representatives: Biskra, Tlemcen

Interview with five journalists: La Voie de l'Oranie, Liberté, El Watan

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents available or reports on such situations to make conclusions, according to media and NGO representatives consulted in September 2011.

**References:**

Interview with sources who requested their names be anonymous.

1. Three academics at the College of Law – University of Tlemcen.

2. Two NGO representatives from Biskra and Tlemcen.

3. Five journalists: Liberté, El Watan, La Voie de l'Oranie.

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

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## 25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents available or reports on such situations to make conclusions, according to journalists consulted in September 2011.

**References:**

Interview with five journalists from El Khabar, Liberté, El Watan and La Voie de l'Oranie. The interviewees requested their names be anonymous.

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents or reports on such situations are available to make conclusions, according to my sources of information consulted in September 2011.

**References:**

Interview with five journalists from El Khabar, Liberté, El Watan and La Voie de l'Oranie. The interviewees requested their names

be anonymous.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents or reports on such situations are available to make conclusions, according to my source of information consulted recently.

**References:**

Interview with five journalists from El Khabar, Liberté, El Watan and La Voie de l'Oranie. The interviewees requested their names be anonymous.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

No documents or reports on such situations are available to make conclusions, according to my sources of information consulted by phone on September 2011.

**References:**

Interview with five journalists from El Khabar, Liberté, El Watan and La Voie de l'Oranie. The interviewees requested their names be anonymous.

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

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### Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

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#### 3.1. <sup>50</sup>Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

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26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes

No

**Comments:**

The Constitution in its Cf. Art. 35 states – “Les infractions commises à l'encontre des droits et libertés, ainsi que les atteintes physiques ou morales à l'intégrité de l'être humain sont réprimées par la loi.”

**References:**

Interview with academics at the College of Law. The interviewees requested their names be anonymous.

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as

failure to follow due process of law when detaining suspected criminals.

**No:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

---

## 27. Can the chief executive be held accountable for his/her actions?

25

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | **50** | 25 | 0

### Comments:

In theory, there is the article of the Constitution which states that the chief executive or minister should give reasons for their decisions and give conference to journalists and so on. However, in practice, explanations are not always given on time to journalists or opposition parties.

### References:

The chief executive and cabinet ministers give explanations of policy. Cf. 2008 Constitution in its Art. 80.

Phone interview with two journalists who requested anonymity – Liberté and La Voie de l'Oranie in January 19, 2012.

Interview with two academics who requested anonymity.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes | **No**

**Comments:**

Such mechanisms do not exist.

**References:**

Interview with academics in September. The interviewees requested their names be anonymous.

**Yes:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

Such mechanism does not exist, according to my source of information consulted in September 2011.

**References:**

Interview with two academics at the College of Law – University of Tlemcen. The interviewees requested their names be anonymous.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

This situation can happen when, for example, the Parliament is in recess (two times in Algeria — November and April). The chief executive can rely on executive orders (ordinance) for various aspects. But when the Parliament meets again the ordinance passed by executive orders will be discussed and in fact will be approved all of the time.

There are two examples:

1. Law on hydrocarbon: Le code pétrolier
2. Family Law: Le code de la famille.

**References:**

Interview with journalists from Liberté and La Voie de l'Oranie.

The interviewees requested their names be anonymous.

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

---

## 28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes

No

**Comments:**

Cf. Article 158 of the Constitution, which states: "Art. 158 – Il est institué une Haute Cour de l'Etat pour connaître des actes pouvant être qualifiés de haute trahison du Président de la République, des crimes et délits du Premier ministre, commis dans l'exercice de leur fonction."

General Secretariat of the Government: <http://www.joradp.dz/HFR/Index.htm>

**References:**

Cf. Article 158 of the Constitution, which states: "Art. 158 – Il est institué une Haute Cour de l'Etat pour connaître des actes pouvant être qualifiés de haute trahison du Président de la République, des crimes et délits du Premier ministre, commis dans l'exercice de leur fonction."

General Secretariat of the Government: <http://www.joradp.dz/HFR/Index.htm>

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | No

**Comments:**

A very high-ranking person who was in charge of the Ministry of Energy has been put on trial this year.

As for the Prime Minister and President of the State, it is possible to prosecute them, but after waiving immunity. The same is true for Parliamentarians or cabinet ministers when they are carrying out their duties.

**References:**

No exceptions according to interview with two academics from the University of Adrar in October 2011.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

---

## 29. Are there regulations governing conflicts of interest by the executive branch?

63

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

**References:**

Order n° 97-04 January 1997, Official Journal N° 3 January 1997, Page 7

**Yes:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**References:**

Order n° 97-04 January 1997 Official Journal N° 3 January 1997, Page 7.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**No:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

There is a legal provision in the law: Loi N° 06 – 01 du 20 février 2006 – JORA N°14, dated March 8, 2006 – Chapter; The Gifts – page 6, Article 38.

**References:**

Loi N° 06 – 01 du 20 février 2006 – JORA N°14, dated March 8, 2006 – Chapter; The Gifts – page 6, Article 38.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | No

**References:**

Cf. Ordonnance N° 97-04 dated January 11, 1997 about asset disclosure forms, JO N°12, 1997, page 7.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes

No

**Comments:**

Just recently implemented. Cf. Official Journal, April 22, 2007 Order N° 07-01 dated March 1st, 2007 relative aux incompatibilités et obligations particulières à certains emplois et fonctions.

**References:**

Cf. Official Journal, April 22, 2007. Order N° 07-01 dated March 1, 2007 relative aux incompatibilités et obligations particulières à certains emplois et fonctions.

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100

75

50

25

0

**Comments:**

The regulations have just been implemented and furthermore there are no documented cases.

**References:**

No reports on that according to two journalists: La Voie de l'Oranie, Liberté.

The interviewees requested their names be anonymous.

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving

government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations for such cases are ignored.

**References:**

Interview with three journalists from La Voie de l’Oranie, Liberté, El Watan.

The interviewees requested their names be anonymous.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

No evidence produced, according to media representatives consulted in September 2011.

**References:**

Interview with three journalists: Liberté, La Voie de l'Oranie, El Watan, The interviewees requested their names be anonymous.

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

### 30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | **No**

**Comments:**

There is no such provision put into practice and published.

**References:**

Interview in September with an academic at the College of Law, University of Tlemcen. The interviewee requested anonymity.

**Yes:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

No publication, according to my sources consulted by phone in September 2011.

**References:**

Interview with two academics at the College of Law – University of Tlemcen. The interviewees requested their names be anonymous.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Never seen a report of that kind.

**References:**

Interview with two academics at the College of Law – University of Tlemcen. The interviewees requested their names be anonymous.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports to assess, according to my source of information consulted in September 2011.

**References:**

Interview with three journalists at Liberté, La Voie de l'Oranie, El Watan. The interviewees requested anonymity.

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

---

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

The government bureaucracy is an extension of the ruling party, according to my source of information consulted by phone in September.

**References:**

Interview with the following:

1. NGO representatives: Tlemcen and Biskra.
2. Two journalists: La Voie de l'Oranie and Liberté.

The interviewees requested anonymity.

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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### 32. Can members of the legislature be held accountable for their actions?

33

32a. In law, the judiciary can review laws passed by the legislature.

Yes

**No**

**Comments:**

The judiciary does not create or is not the source of the law. The judge is in charge only of its interpretation and explanation. He is not a law maker.

**References:**

Interview in October 2011 with two academics at the College of Law – University of Adrar. The interviewees requested anonymity.

**Yes:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100

75

50

25

**0**

**Comments:**

No such provision in practice.

**References:**

Interview with two sources:

1. Two academics at the College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l'Oranie.

The interviewees requested their names be anonymous.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes

No

**References:**

Art. 30. Le magistrat qui a commis un crime ou un délit est poursuivi conformément au code de procédure pénale. This article is in the Loi organique n° 04-11 du 6 septembre 2004 portant statut de la magistrature. J.O. N°57, September 8, 2004, page 14.

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

---

33. Are there regulations governing conflicts of interest by members of the national legislature?

43

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes | No

**References:**

Cf. Art. 6, Ordonnance n° 97-04 du 11 January 1997 relative à la déclaration de patrimoine, JO, N° 3 du 12 Janvier 1997.

**Yes:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

No such cases reported. They simply retire with a very comfortable pension.

**References:**

Interview with a former judge, Barka Fouad, in Oran in September 2011.

**Yes:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

**References:**

Loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative à la prévention et à la lutte contre la corruption.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

**References:**

Loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative à la prévention et à la lutte contre la corruption.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

No such cases reported to assess the question, according to some academics met in September 2011.

**References:**

Interview with two academics at the College of Law – University of Tlemcen. The interviewees requested anonymity.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations are rarely enforced, according to my source of information consulted in September 2011.

**References:**

Interview with two journalists: La Voie de l'Oranie, Liberté in September. The interviewees requested anonymity.

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations are never enforced, according to my sources.

**References:**

Interview with two journalists in September: La Voie de l'Oranie, Liberté. The interviewees requested anonymity.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

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### 34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | **No**

**Comments:**

No such case, and also there is no legal provision, according to media representatives and academics consulted by phone in September 2011.

**References:**

Interview with two academics at the college of Law – University of Tlemcan and three journalists: Liberté, La voie de l’Oranie, El Watan. The interviewees requested anonymity.

**Yes:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

No cases of prompt, successful access.

**References:**

Interview with two academics at the College of Law – University of Tlemcan and three journalists: Liberté, La voie de l’Oranie, El Watan.

The interviewees requested anonymity.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports of prompt, successful access.

**References:**

Interview with two academics at the College of Law – University of Tlemcan and three journalists: Liberté, La voie de l’Oranie, El Watan.

The interviewees requested anonymity.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports about this are published.

**References:**

Interview with three journalists from Liberté, La voie de l’Oranie, El Watan. The interviewees requested anonymity.

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

Yes

No

### References:

Cf. Parliamentary Website: Comptes rendus des séances publiques:

<http://www.apn-dz.org/apn/french/index.htm>

**Yes:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**No:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100

75

50

25

0

### Comments:

Records are available online.

Cf. this link: <http://www.apn-dz.org/apn/french/index.htm>

Under the window: Journal Officiel des débats.

**References:**

<http://www.apn-dz.org/apn/french/index.htm>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online at a reasonable cost.

Here is the link: <http://www.apn-dz.org/apn/french/index.htm>

**References:**

Interview with two scholars who prefer not to be named.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

No

**References:**

Cf. Loi organique N°04 – 11 du 6 septembre 2004 portant statut de la magistrature, JO N°57 du 8 septembre 2004. Also, Cf. JO N°17 du 14 mars 2007, page 13 portant conseil supérieur de la Magistrature. Cf. Also loi organique n°04-12 September 2004, portant composition, fonctionnement et attributions du CSM.

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100

75

50

25

0

**Comments:**

National-level judges selected have relevant professional qualifications such as formal legal training and experience as a lower court judge. But, other criteria – relations, family, political aspects, subjective factors – can be influential when it comes to making a final decision about nominating judges.

**References:**

Interview with a former judge: Barka Fouad – Oran.

Interview with two journalists from Liberté and La Voie de l'Oranie who prefer to be anonymous.

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | **No**

**Comments:**

The conseil Supérieur de la Magistrature: Pour rappel, le CSM qui gère la carrière des magistrats se compose du président de la République, du ministre de la Justice qui en assure la vice-présidence, du président de la Cour suprême, du procureur général près la Cour suprême, de dix magistrats élus par leurs pairs et de six personnalités choisies par le «président de la République, en raison de leur compétence, en dehors du corps de la magistrature».

<http://www.algerie360.com/algerie/le-csm-se-reunit-demain-mutations-et-promotions-dans-le-corps-des-magistrats/>

Cf. also: Journal Officiel de la République Algérienne: The Algerian Gazette N°57 dated September 8, 2004, page 23.

**References:**

Conseil Supérieur de la Magistrature.  
Algerian Gazette N°57 Dated September 8, 2004 page 23.

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

**No:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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## 37. Can members of the judiciary be held accountable for their actions?

79

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

**Yes** | No

**References:**

By Constitution, article 144: states: "Decisions are motivated."

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Judges are formally required to explain their judgments in detail, establishing a body of precedent, according to a judge consulted in September 2011.

**References:**

According to former judge Barka Fouad of Oran.

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**References:**

It is called the Conseil Supérieur de la Magistrature (CSM): High Council of Judges, Cf. Organic Law 04-12. JO N°57 September 8, 2004.

See also, Journal Officiel, N°17 du 14 mars 2007, page 13, CSM.

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

**References:**

Loi organique N°04-11 du 6 septembre 2004,  
JO N°57 du September 8, 2004.

See also Loi organique N°04-12 de September 2004 portant composition, fonctionnement et attributions du CSM.

See also: Journal Officiel, N°17 du 14 mars 2007, page 13, CSM.

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

The judicial disciplinary agency rarely investigates on its own, but will investigate if prompted by the hierarchy, according to a magistrate contacted in September 2011 who does not want to be named.

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

**Comments:**

There is a provision in the Constitution. In practice it can happen depending on the cases.

**References:**

Interview with the following:

1. A former judge, Barka Fouad, interviewed in Oran.
2. Two journalists: Liberté and La Voie de l'Oranie.

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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### 38. Are there regulations governing conflicts of interest for the national-level judiciary?

43

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

**Yes**

No

**References:**

Cf. Order N° 97-04 January 1997, Journal Officiel N°3 January 1997, page 7, Article 4.

**Yes:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | No

**References:**

Cf. Algerian Penal Code in its section 2, articles 126 and 134.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | No

**References:**

Ordonnance n° 97-04, January 1997, Journal Officiel N° 3 du 12 Janvier 1997, Page 7, Article 9.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | No

**Comments:**

No such restrictions exist, according to a magistrate interviewed in September 2011.

**References:**

Interview with former magistrate Barka Fouad.

**Yes:** A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no such restrictions, according to a judge consulted in September 2011.

**References:**

Interview with a former judge, Barka Fouad.

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**References:**

Interview with a former judge, Barka Fouad, Oran, September 2011

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

No audits at this stage, according to a judge and an executive at the Audit court consulted recently.

**References:**

Interview with a former judge, Barka Fouad, conducted in Oran, September 2011.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

---

### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

**Comments:**

Asset disclosure records do not exist, according to a judge, and auditors at the Audit court consulted in September 2011.

**References:**

Interview with a former judge, Barka Fouad, in Oran, September 2011.

**Yes:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is nothing to access, according to professionals — judges and auditors at the Cour des comptes consulted by phone in September 2011.

**References:**

Interview with a former judge, Barka Fouad, in Oran in September 2011, and an auditor at the Cour des comptes.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

There are no records to access or available, according to judges consulted in September 2011.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Records do not exist, according to sources consulted in September 2011.

**References:**

Interview with former Judge Barka Fouad, Oran, and an Auditor at the Cour des comptes in Algiers.

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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### 3.4. Budget Process Oversight & Transparency

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40. Can the legislature provide input to the national budget?

83

40a. In law, the legislature can amend the budget.

Yes | No

**References:**

Cf. the 2008 Constitution, Chapter 12 and article 122.

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

In theory, all expenditures require legislative approval, but in reality there are exceptions. The complementary budget (ou Loi de Finances Complémentaires) does not go through the process of parliamentary discussion as the general budget does.

**References:**

Interview in September with two civil servants at the Ministry of Finance who requested anonymity.

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The Commission on Finance is in charge of monitoring the budget process and provides input and suggests changes. But in reality there is a shortage of expertise and times to go in-depth in an investigation, according to a member of this Commission consulted at the Parliament in September 2011.

**References:**

Interview with two members of the Parliament: Commission of Budget and Finance, consulted in Algiers in September 2011. My sources prefer to remain anonymous.

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

---

## 41. Can citizens access the national budgetary process?

33

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

**Comments:**

There is a formal process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions, according to an MP met at the parliament recently, government official, journalists, and an academic interviewed in September 2011.

**References:**

Interview with the following sources:

1. Retired government official: M.mBenchenhou – Algiers.
2. One academic who teaches Public Finance at the University of Ouargla.
3. Two journalists: Liberté and La Voie de l'Oranie.

Sources: (2) and (3) prefer to remain anonymous.

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of

individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens have no formal access to provide input to the budget debate.

A civil servant in Parliament said that the general public is not admitted to the Parliament when they are in session.

This statement can be found in various reports on Algeria when it comes to this point: Budget Citizen and other aspects.

Cf. recent surveys carried out by IBP: [www.internationalbudget.org](http://www.internationalbudget.org)

**References:**

Cf. IBP: [www.internationalbudget.org](http://www.internationalbudget.org)

Interview with the following:

– Two academics – University of Biskra.

– Five journalists: Liberté and La Voie de l’Oranie.

My sources prefer to remain anonymous.

**100:** Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens and journalists can access itemized lists of budget allocations. This information is available . Cf. Loi de Finances de répartition du budget: “Finance Act which allocates the budget”. Cf. Loi de finances portant répartition du budget selon les Ministères. Some points are not itemized such as defense or security allocations.

**References:**

Interviews with the following respondents:

- One academic at the University of Biskra.
- Two journalists: Liberté and La Voie de l’Oranie.

My sources prefer to remain anonymous.

**100:** Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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## 42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes

No

**References:**

The “Budget and Finances Commission” (Commission du Budget et des Finances) has the role to pursue this function.

**Yes:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**No:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

---

## 43. Is the legislative committee overseeing the expenditure of public funds effective?

42

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**Comments:**

Agency heads submit reports to a budget oversight committee on a regular basis with some delay, according to the government official interviewed.

**References:**

Interview with two government officials who prefer to remain anonymous.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee is comprised of legislators from both the ruling parties, which include opposition parties, although the ruling party has a disproportionate share of committee seats. Their voice is insignificant, according to a member of Parliament interviewed in September 2011.

**References:**

Interview in September 2011 with three journalists: Liberté, La Voie de l'Oranie and El Watan. The interviewees requested to be anonymous.

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | **50** | 25 | 0

**Comments:**

In practice, when necessary, this committee initiates investigations into financial irregularities. It is in the law. This can be very slow and sometimes ineffective. Bureaucracy is one of the main causes of the lack of efficiency.

**References:**

Interview with one government official in September 2011 and two academics from the Faculty of Law – University of Biskra.

The interviewees requested to be anonymous.

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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## Category 4. Public Administration and Professionalism

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### 4.1. <sup>55</sup>Civil Service: Conflicts of Interest Safeguards and Political Independence

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44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

**References:**

Order No 06-03 of 15 July 2006 with regards to the status of the civil servant, J.O. N° 46 as of July 2006, Page 3, Title 2 – Garanties, Rights & Obligations.

**Yes:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**No:** A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | No

**References:**

A law was implemented in February 2006 (N°06 – 01) articles 29-33. Loi n°06 – 01 du 20 février 2006 relative à la prévention et à la lutte contre la corruption, JO, N° 14 March 8, 2006.

**Yes:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**No:** A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | No

**Comments:**

It is called tribunal administratif who is in charge of these questions.

We start first at a lower level to reconcile the two parties: Workers Inspection (Inspection du travail). If it does not find a satisfactory solution for both parties in conflict then we go to a higher level: Tribunal des Prud'hommes, where we have judges sitting along side worker representatives.

**References:**

Interview with two academics at the College of Law – University of Adrar. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

**Comments:**

If convicted, yes.

**References:**

The Code Penal Article 8 in the Law N° 82-04 February 1982.

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

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## 45. Is the law governing the administration and civil service effective?

67

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The protection is not complete and can be influenced in their decision.

**References:**

Interview with two academics: From the Faculty of Law – University of Biskra.

The interviewees requested to be anonymous.

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a formal assessment and it is published and known and it is standard.

**References:**

Interview with two governments officials confirmed in Algiers, September 2011.

The interviewees requested to be anonymous.

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**References:**

Interview with two government officials.

The interviewees requested to be anonymous.

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**References:**

Interview with two government officials in Algiers in September 2011.

The interviewees requested to be anonymous.

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

**References:**

Interview with government official and NGO representatives. The interviewees requested to be anonymous.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

**References:**

Interview with one government official

Interview with two academics: University of Oran – College of Medicine and Law.

Interview with NGO representatives: Biskra and Adrar.

The interviewees requested to be anonymous.

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no independent civil service redress mechanism.

**References:**

Interviews with the following respondents:

- One government official.
- One NGO representative.
- One academic: University of Batna – Faculty of Law.

All met in September 2011

The interviewees requested to be anonymous.

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**References:**

Interview with the following respondents:

- One government official at the Ministry of Sport.
- One academic at the University of Tamanrasset.

The interviewees requested to be anonymous.

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**References:**

Interview with the following respondents:

- One former judge, Barka Fouad, met in September in Oran.
- Two academics at the University of Tamanrasset.

The two last interviewees requested to be anonymous.

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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## 46. Are there regulations addressing conflicts of interest for civil servants?

22

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | No

**References:**

Senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

Cf. Ordonnance N°97-04 du 11 janvier 1997 relative à la déclaration de patrimoine, JO, N°3 11 janvier 1997.

**Yes:** A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | **No**

**References:**

Interview with a government official and law makers in Algiers in September 2011.

The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**No:** A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | **No**

**Comments:**

No such provision.

**References:**

Interview with two academics: University of Biskra. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | No

**Comments:**

See Law N°06-01 du 20 février 2006 in Journal officiel N°14 du March 8, 2006.

JORA N°14: Des Cadeaux – in page 6 – and particularly Art. 38 and Art.40 for the private sector.

Art. 38 says roughly: “There is a six months to two year prison term for any public agent (or civil servant) who accepts from another person a gift or any other advantage in order to have his decision influenced. The fine varies between 200,000 DA to 1,000,000 DA (\$2,615 to \$13,000)

Art. 40 deals with private sector: from five month prison five year term and the fine may vary between \$654 to \$6,540.

**References:**

See Law N°06-01 du 20 février 2006 in Journal officiel N°14 du March 8, 2006.

**Yes:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**No:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

**References:**

Interview in September 2011 with an academic at the Faculty of Law – University of Tlemcen. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

**Comments:**

The law has just passed, so there hasn't been sufficient time to make an evaluation on the effectiveness of this regulation.

**References:**

Interview with the following respondents:

- One government official met at the Ministry of Education, Algiers in September 2011.
- Two academics from the College of Law – University of Adrar.

The interviewees requested to be anonymous.

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

**References:**

Interview with different sources:

- One government official.
- Two academics: University of Biskra.
- Two NGO representatives: Tlemcen and Oran.
- Two journalists: Liberté and La Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**References:**

Interview with two sources:

- One government official met at the Ministry of Education.
- One academic at the University of Adrar.

The interviewees requested to be anonymous.

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**References:**

Interview with the following respondents:

- One government official at the Ministry of Finance.
- One academic at the College of Law – University of Adrar.

The interviewees requested to be anonymous.

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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#### 47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | **No**

**Comments:**

No such regulation.

**References:**

Interview with one civil servant at the Ministry of Finance in September 2011. The interviewee requested to be anonymous.

**Yes:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**No:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No such regulation.

**References:**

Interview with a civil servant at the Ministry of Finance in September 2011.

The interviewee requested to be anonymous.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No such regulation.

**References:**

Interview with one civil servant at the Ministry of Finance in September 2011. The interviewee requested to be anonymous.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

No such regulation.

**References:**

Interview with one civil servant at the Ministry of Finance in September 2011. The interviewee requested to be anonymous.

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 4.2. Whistle-blowing Protections

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48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

50

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**References:**

Law No. 06-01 on prevention and fight against corruption February 2006. Title 4, Article 45.

**Yes:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**References:**

Interview with one government official at the Ministry of Finance.

Interview with one academic at the college of Law – University of Biskra.

Interview with one NGO representative from Tlemcen.

Interview with one journalist: La Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**References:**

Law No. 06-01 on prevention and fight against corruption February 2006. Title 4, Article 45.

**Yes:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

This case has never occurred in reality due to the high unemployment in the private sector.

**References:**

Interview with NGO representative from Oran in September 2011 and two journalists: Liberté and La Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

0

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes | No

**Comments:**

No such regulation.

**References:**

Interview with academics from the College of Law – University of Tlemcen. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

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50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

25

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

It has not been staffed yet.

**References:**

Interview with two government officials at the Ministry of Finance and two journalists. Liberté and La Voie de l'Oranie, in September.

The interviewees requested to be anonymous.

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

It has not been staffed yet but when it will be staffed the agency is entitled to a regular budget and funding.

The budget allocation will be provided, as is the case for any government agency. When it is created it must have a budget and public funding on a regular basis.

**References:**

Interview with two government officials at the Ministry of Finance and two journalists, Liberté and La Voie de l'Oranie, in September.

The interviewees requested to be anonymous.

Date September 2011.

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Because of the predominant bureaucracy in the public affairs, things tend to be very slow and there is no exception when it comes to this kind of agency. It should be remembered that things take time and sometimes a long time to start working.

**References:**

Interview with two government officials at the Ministry of Finance and two journalists, Liberté and La Voie de l'Oranie, in September.

The interviewees requested to be anonymous.

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, the agency can investigate or initiate investigations in practice. There is nothing preventing that action based on the law.

The agency is part of the government and acts accordingly. It is not an independent mechanism. Therefore, reports are not published and hence difficult to assess. This explains the very low score.

**References:**

Interview with two government officials at the Ministry of Finance and two journalists, Liberté and La Voie de l'Oranie, in September.

The interviewees requested to be anonymous.

September 2011.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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25  
4.3. Government Procurement: Transparency, Fairness, and  
Conflicts of Interest Safeguards

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51. Is the public procurement process effective?

55

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

**References:**

Law N°06 01 preventing and fighting corruption, February 2006, Title 4 in its article 33. JO N°14 du 8 mars 2006.  
Also, Sous-section 3 – Du règlement des litiges, Code des Marchés Publics, <http://www.mf.gov.dz/>

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**No:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

**Comments:**

There is no regular required training of public procurement officials and when available is voluntary.

**References:**

Interview in October 2011 with two academics at the College of Law – University of Adrar, and two civil servants at the local government in Wilaya of Tlemcen.

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Cf. Code des Marchés publics and Texte des marchés publics at: <http://www.mf.gov.dz/>

**References:**

Interviews conducted in September 2011.

The interviewee requested to be anonymous.

Interview with local government official met at the Wilaya of Tlemcen.

Interview with civil servant at the Ministry of Finance

Interview with one academic – College of Law – University of Adrar

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | **No**

**Comments:**

This mechanism does not exist as such.

**References:**

Interview in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**Yes:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**No:** A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

**Yes** | No

**References:**

Presidential Decree N°02-250 as of July 2002 and completed in September 2003 Decree N° 03-301 Title 3.

See also Code des marchés publics at: <http://www.mf.gov.dz/>

**Yes:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**No:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**References:**

Presidential Decree N°02-250 as of July 2002 and completed in September 2003 N°03-301, Title 3.

**Yes:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**No:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

**References:**

Cf. Décret présidentiel n° 02-250 24 juillet 2002 portant Réglementation des marchés publics. modifié et complété par le décret présidentiel n° 03-301 du 11 Septembre 2003 Title 5, Section 2, Subsection 1, Article 129.

**Yes:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**No:** A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**References:**

Décret présidentiel n° 02-250 of 24 juillet 2002 portant Réglementation des marchés publics. modifié et complété par le décret présidentiel n° 03-301 du September 11, 2003 Title 4, Section 7, Subsection 3, Article 101.

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**No:** A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

**Comments:**

There is no such provision. But a draft is about to fix the gap.

**References:**

Interview with two sources:

1. A civil servant at the Ministry of Finance

The interviewees requested to be anonymous.

2. A former judge: Barka Fouad.

Cf. El Watan Dated Mardi 13 décembre 2011. page 7. "Fichier national des fraudeurs".

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

**No:** A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

No such law or practice exists.

Cf the previous comment which applies.

Cf. El Watan du Mardi 13 décembre 2011. page 7.

**References:**

Interview with sources who requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics from the College of Law – University of Adrar.

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

---

## 52. Can citizens access the public procurement process?

92

52a. In law, citizens can access public procurement regulations.

Yes

No

**Comments:**

The rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**References:**

Décret présidentiel n° 02-250 du 24 juillet 2002 portant Réglementation des marchés publics. modifié et complété par le décret présidentiel n° 03-301 du September 11, 2003.

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**References:**

Décret présidentiel n° 02-250 du 24 juillet 2002 portant Réglementation des marchés publics. modifié et complété par le décret présidentiel n° 03-301 du September 11, 2003.

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online and published by most newspapers.

**References:**

Interview in September 2011 with the following respondents who requested to be anonymous.

1. Local government officials (Daira of Tlemcen) met in September.
2. One journalist La Voie de l'Oranie.
3. Private investor in Oran.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

**Comments:**

Available online and also published in newspapers – at little cost.

**References:**

Interview in September 2011 with respondents who requested to be anonymous.

1. Local government officials at the Daira of Tlemcen.
2. Journalists at La Voie de l'Oranie.
3. Private investor in Tlemcen.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

**Comments:**

There is a formal process of advertisement. Sometimes, the time between advertisements and bidding may be too short to allow full participation.

See: <http://www.mf.gov.dz/>

**References:**

Interviews conducted in September. The interviewees requested to be anonymous.

1. Local government officials at the Daira of Tlemcen.
2. Two journalists: La Voie de l'Oranie and Liberté.

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

Records of public procurements are available: Wilaya, Communes, Daira and relevant institutions in connection with the bids. The support for this is provided at <http://www.mf.gov.dz/>

**References:**

Interviews conducted in September 2011 with respondents who requested to be anonymous.

1. Local government officials at the Daira of Tlemcen.
2. Two journalists: La Voie de l'Oranie and Liberté.
3. Private investor in Tlemcen.

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

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#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

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53. Is the privatization process effective?

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**References:**

Cf. Ordonnance n° 01-04 du 20 août 2001 relative à l'organisation, la gestion et la privatisation des entreprises publiques économiques. Chapter 3: General Dispositions with regards to privatization.

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**Comments:**

There is a provision in the law.

Cf. Article 36 – Ordonnance n° 01-04 du 20 août 2001 relative à l'organisation, la gestion et la privatisation des entreprises publiques économiques.

**References:**

Cf. Article 36 – Ordonnance n° 01-04 du 20 août 2001 relative à l'organisation, la gestion et la privatisation des entreprises publiques économiques.

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

No enforcement for many reasons:

Lack of experts in this field is the main reason, but also bureaucratic and no will to enforce, according to two lawyers based in Tlemcen.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. Local government officials at the Daira of Tlemcen.
2. Two academics from the College of Law – University of Biskra.
3. Two journalists: Liberté and La Voie de l’Oranie.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

---

## 54. Can citizens access the terms and conditions of privatization bids?

85

54a. In law, citizens can access privatization regulations.

Yes

No

**Comments:**

Privatization rules and regulations are published in daily papers such as El Watan, El Moudjahid etc. The details are provided.

**References:**

Interview with lawyer at the Court of Tlemcen in September 2011.

The interviewee requested to be anonymous.

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a formal process of advertising privatizations. This includes newspaper advertising and other official announcements. All major procurements are advertised in this way. <http://www.mf.gov.dz/>

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. Local government official at the Daira of Tlemcen.
2. Two academics from the College of Law – University of Biskra.
3. Two journalists: Liberté and La Voie de l'Oranie.

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | No

**References:**

The government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly accessible government register. L'ordonnance N° 95-22 of 26 August 1995 Article 18 and Ordonnance n° 01-04 of 20 August 2001. Journal Officiel N° 47 of 22 August 2001, Page 7, Article 35.

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The process is not widespread or frequent, but usually there is enough time given.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

Interview with local government official at the Daira of Tlemcen.

Interview with two academics from the college of Law – University of Biskra.

Interview with two journalists: Liberté and La Voie de l'Oranie.

Interview with local investor in Oran.

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost is low, according to some businessmen met in Tlemcen and also the director of the Chamber of Commerce in Tlemcen interviewed in December 2011. The sources requested anonymity.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. Local government official at the Daira of Tlemcen.

2. Two academics from the College of Law – University of Biskra.

3. Two journalists: Liberté and La Voie de l'Oranie.

4. Local investor based in Tlemcen.

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## Category 5. Government Oversight and Controls

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### 5.1. <sup>53</sup>National Ombudsman

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55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

0

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes

**No**

**Comments:**

No such law or practice exists.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.

2. Two academics at the College of Law – University of Adrar.

**Yes:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**No:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

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## 56. Is the national ombudsman effective?

0

56a. In law, the ombudsman is protected from political interference.

Yes | **No**

### Comments:

Not applicable. No such provision.

### References:

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | **0**

### Comments:

There is no protection in practice.

### References:

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.

2. Two academics at the College of Law – University of Adrar.

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Does not apply.

**References:**

Interviews conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.

2. Two academics at the College of Law – University of Adrar.

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

**Comments:**

This is not the case.

**References:**

Interviews conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

**Comments:**

Does not apply.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Does not apply.

**References:**

Interviews conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

No public reports.

**References:**

Interview conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.

2. Two academics at the College of Law – University of Adrar.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

No investigation taken.

**References:**

Interview conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.

2. Two academics at the College of Law – University of Adrar.

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

It is not the case.

**References:**

Interview conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Does not apply.

**References:**

Interviews conducted in September 2011.

The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

Does not apply.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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## 57. Can citizens access the reports of the ombudsman?

**0**

57a. In law, citizens can access reports of the ombudsman(s).

Yes | **No**

**Comments:**

There are no reports available or published to consult, according to my sources.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.
3. A former judge: Barka Fouad based in Oran.

**Yes:** A YES score is earned if all ombudsman reports are publicly available.

**No:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports available.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports available and hence not published or accessible.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. A civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 5.2. Supreme Audit Institution

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58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes

No

**References:**

Such agency is called: Cour des Comptes.

<http://www.ccomptes.org.dz/Maquette%2027NEW120.htm>. The Web site is not documented nor updated.

**Yes:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**No:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

## 59. Is the supreme audit institution effective?

41

59a. In law, the supreme audit institution is protected from political interference.

Yes | **No**

### Comments:

Mise en place en 1980, la Cour des Comptes est actuellement régie par l'ordonnance n° 95-20 du 17 juillet 1995 qui détermine ses attributions, son organisation et son fonctionnement ainsi que la sanction de ses investigations.

The agency is a subordinate part of the government, and it is the Head of State who nominates the Chair and the Staff.

### References:

Interview with two academics in September 2011 at the College of Law – University of Adrar. The interviewees requested to be anonymous.

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | **0**

### Comments:

Appointment and removal are carried out by the President. No justification has to be given.

### References:

Interview with two academics at the college of Law – University of Adrar.

The interviewees requested to be anonymous.

September 2011.

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Much can be done but more staffing is needed, both in terms of quantity and quality.

**References:**

Interview with an auditor and judge at the Court – Cour des comptes met in September. The interviewees requested to be anonymous.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Appointments are usually based on professional qualifications. For senior appointees it is rather different, as they have to also have clear party loyalties, according to a couple of magistrates interviewed on this aspect.

**References:**

Interviews conducted in September 2011:

1. One government official at the Audit court.
2. Two academics at the Faculty of Law – University of Biskra.

The interviewees requested to be anonymous.

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, there is no delay. The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding. They receive, as do all civil servants, a monthly salary.

**References:**

Interview with two civil servants working at the agency who do not want to be named. The interview was conducted by phone in September 2011.

Interview with two academics at the Faculty of Law – University of Adrar in October 2011.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Web site does not have any reports published.  
<http://www.ccomptes.org.dz/>

**References:**

Interview with two academics at the College of Law – University of Tlemcen and University of Biskra. The interviewees requested to be anonymous. All met in September 2011 at the University of Tlemcen and Biskra.

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports published or made public to answer this question. The Web site has not been updated for a very long time.

<http://www.ccomptes.org.dz/>

**References:**

Interviews with the following respondents in September 2011:

1. One government official working at the Audit court.
2. Two academics – Faculty of Law – University of Adrar.
3. One NGO representative based in Tlemcen.
4. Two journalists: La Voie de l'Oranie and Liberté.

The interviewees requested to be anonymous.

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**References:**

The supreme audit institution can generally decide what to investigate, and when, according to the Ordinance N°95-20 du July 17,1995 and published in the Journal Official N°39 du July 23, 1995.

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 60. Can citizens access reports of the supreme audit institution?

0

60a. In law, citizens can access reports of the audit agency.

Yes | **No**

**Comments:**

They are not published on the Web page of the Institution.

The web page has not been updated for a very long time

**References:**

Interview with one official working at the Audit court in September 2011. The interviewee requested to be anonymous.

<http://www.ccomptes.org.dz/>

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No publication available on the Web page of the institution, which has not been updated for a very long time.

<http://www.ccomptes.org.dz/>

**References:**

Interview with respondents in early September 2011. The interviewees requested to be anonymous.

1. One government official working at the Audit court.
2. Two academics – Faculty of Law – University of Adrar.
3. Two journalists: Liberté and La voie de l’Oranie.

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No publication on the Web site of the Audit court.

<http://www.ccomptes.org.dz/>

**References:**

Interviews conducted in early September 2011. The interviewees requested to be anonymous.

1. One government official working at the Audit court.
2. Two academics – Faculty of Law – University of Adrar.
3. Two journalists: Liberté and La voie de l'Oranie.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 47 5.3. Taxes and Customs: Fairness and Capacity

---

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes

No

**Comments:**

There is a national agency formally mandated to collect taxes, the Direction Générale des Impôts.

<http://www.mfdgi.gov.dz/>

**References:**

<http://www.mfdgi.gov.dz/>

<http://www.mf.gov.dz/>

**Yes:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

## 62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

Yes, the agency has a professional full staff.

### References:

One government official working at the Directorate of Taxation: Direction Générale des Impôts – DGI at the Ministry of Finance.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

### Comments:

There are no political considerations when it comes to the agency funding. The staff has a monthly wage/salary.

### References:

Interview with official working at this agency – Direction Générale des Impôts – DGI. The interviewee requested to be anonymous. September 2011.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

### 63. In practice, are tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

**Comments:**

Tax law is unequally applied, mainly when it comes to taxation on businesses where some groups of citizens are consistently more or less likely to evade tax law than others.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. One government official working at the Ministry of Finance.
2. Two academics – Faculty of Law – University of Adrar.
3. Two journalists: Liberté and La Voie de l’Oranie.
4. A businessman in Oran.

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

### 64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

**References:**

It is called the Direction Générale des Douanes: <http://www.douane.gov.dz/>

**Yes:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Very well staffed.

**References:**

Interview with a government official at the Ministry of Finance early September 2011.

The interviewee requested to be anonymous.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, funding and salaries are regular with no delay.

**References:**

Interview with a government official at the Ministry of Finance in September 2011.

Interviews with two independent journalists: liberté and la voie de l'oranie, two NGOs, and two academics.

All interviewees requested to be anonymous.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

75

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

There is some fraud. Cases have been reported recently by the press. Some links of Web sites are provided below:

1. [http://www.mirabab.fr/actualite\\_det2.php?link=12201](http://www.mirabab.fr/actualite_det2.php?link=12201)
2. <http://www.algerie360.com/algerie/douanes-faire-barrage-a-la-fraude/>
3. <http://www.aps.dz/Fraudes-a-l-importation-les.html>

**References:**

Interview with respondents in September 2011. The interviewees requested to be anonymous.

1. Two academics from the College of Law – University of Adrar.

2. Two journalists: Liberté and La Voie de l'Oranie.

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## 5.4. Oversight of State-Owned Enterprises

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67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes

No

**References:**

The Audit Court has this power to investigate. Cf. Ordonnance N°95 – 20 du 17 juillet 1995 in JORA N°39 du July 23, 1995.

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

---

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

40

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68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | **No**

**Comments:**

It is part of the institutions with no separation between the two entities.

**References:**

Interview with a government official at the Ministry of Finance in September. The interviewee requested to be anonymous.

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

**Comments:**

Sometimes there are less qualified staff, because they are hired as friends and entourage.

**References:**

Interview with a civil servant at the Ministry of Finance. The interviewee requested to be anonymous. September 2011.

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Good funding and regular salary for the staff.

**References:**

Interview in September with a civil servant at the Ministry of Finance and two academics at the College of Law – University of Algiers. The interviewees requested to be anonymous.

**100:** The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Investigations are carried out mainly according to the official orientations. The results are not published.

**References:**

Interviews with two sources contacted in September:

1. Two academics at the College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

No published reports.

**References:**

Interview with the following respondents:

1. Two academics College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l’Oranie.

The interviewees requested to be anonymous.

September 2011.

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

---

## 69. Can citizens access the financial records of state-owned companies?

55

69a. In law, citizens can access the financial records of state-owned companies.

Yes | **No**

**References:**

Such law does not exist according to a civil servant at the Ministry of Finance and another one working at the Audit court, both contacted in September. The interviewees requested to be anonymous.

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | **50** | 25 | 0

**Comments:**

The 2010 report of oil state company is available and has been downloaded and attached.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous, including a civil servant at the Ministry of Energy.

SONATRACH – Which is the largest state company in the country operating in the oil sector. There is a Web site with financial records available to download at <http://www.sonatrach-dz.com/NEW/rapport-an.html>

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | **75** | 50 | 25 | 0

**Comments:**

State-owned enterprises can be audited by the Audit Court according to the Ordinance N°95-20 du July 17, 1995 updated:

Loi n° 10- 08 du 19 Dhou El Kaada 1431 correspondant au 27 octobre 2010 portant approbation de l'ordonnance n° 10-02 du 16 ramadhan 1431 correspondant au 26 août 2010 modifiant et complétant l'ordonnance n° 95-20 du 19 Safar 1416 correspondant au 17 juillet 1995 relative à la Cour des comptes. .(JORA: 50)

**References:**

Interview in September with a civil servant at the Ministry of Finance and another at the Audit court. The interviewees requested to be anonymous.

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | **75** | 50 | 25 | 0

**Comments:**

Can be found online.

Cf. "Le Rapport Annuel Sonatrach": [http://www.sonatrach-dz.com/V\\_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf](http://www.sonatrach-dz.com/V_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf)

**References:**

Interview with the following respondents:

1. Two academics at the College of Law – University of Adrar.

2. One civil servant at the Ministry of Finance.

SONATRACH – There is a Web link to the annual reports. The latest published online is for the year 2009: [http://www.sonatrach-dz.com/V\\_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf](http://www.sonatrach-dz.com/V_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Online at: <http://www.sonatrach-dz.com/NEW/rapport-an.html>

[http://www.sonatrach-dz.com/V\\_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf](http://www.sonatrach-dz.com/V_English/rapport%20annuel%202010/rapport%20annuel%202010%20.pdf)

**References:**

The Web site – SONATRACH – the largest State – owned company in the oil sector: <http://www.sonatrach-dz.com/NEW/rapport-an.html>

Interviews conducted in October 2011:

1. One civil servant at the Ministry of Finance.
2. Two academics at the College of Law – University of Adrar.
3. Two journalists: Liberté and La Voie de l’Oranie.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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65

## 5.5. Business Licensing and Regulation

---

70. Are business licenses available to all citizens?

69

70a. In law, anyone may apply for a business license.

Yes | No

**Comments:**

A license (registre de commerce) is required by law to start a business.

TITRE III – DU REGISTRE DE COMMERCE CHAP. : – I – DE L'INSCRIPTION AU REGISTRE DE COMMERCE and particularly Article 19.

**References:**

We can look at the Law on Commerce (Code de Commerce) in its Titre III – Du Registre de Commerce and Chapter I: De l'inscription au registre de commerce – Article 19 to 20bis.

The conditions are in: Article 5 of the Code de Commerce.

**Yes:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**No:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

**Comments:**

We might look at two articles which relate to the cases: Art. 15 and Art.16 of this law.

**References:**

Décret exécutif n° 97-41 du 9 Ramadhan 1417 correspondant au 18 janvier 1997 relatif aux conditions d'inscription au registre du commerce.

**Yes:** A YES score is earned if there is a formal process for appealing a rejected license.

**No:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

It usually takes 25 days, according to "Doing Business Report" – World Bank:  
<http://www.doingbusiness.org/data/exploreeconomies/algeria>

**References:**

Interviews conducted in October:

- Two private sector representatives in Tlemcen.
- Civil servant at the Ministry of Small and medium enterprises.

The interviewees requested to be anonymous.

World Bank Web site: <http://www.doingbusiness.org/data/exploreeconomies/algeria>

ANSEJ: Agency in charge for providing the necessary assistance for business investors mainly the youth.

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost is indicated in: <http://www.doingbusiness.org/data/exploreeconomies/algeria>

**References:**

Interview with the following respondent:  
– A private local investor in Tlemcen – Barka Ahmed.

World Bank: <http://www.doingbusiness.org/data/exploreeconomies/algeria>

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

No

### References:

Decree on: Contrôle de la qualité et la répression des fraudes. There is also a law protecting the consumer and the consumer's rights.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes

No

### References:

Law N°83-03 February 1983 with regard to the environment.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

**References:**

Decree on "Contrôle de la qualité et la répression des fraudes."

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

---

## 72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Not comprehensive because of the lack of expertise and staff inspectors.

**References:**

Interviews with the following respondents in September 2011:

1. Two journalists: Liberté and La Voie de l'Oranie.
2. Local businessman in Tlemcen: Barka Ahmed.

The journalists requested to be anonymous.

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

The lack of expertise and staff hamper the investigation and work of the agency.

**References:**

Interviews with two journalists: Liberté and La Voie de l'Oranie in September 2011. The interviewees requested to be anonymous.

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Again, the lack of experts and technical staff is at the origin of a rather unequal situation where some sectors are controlled whereas others have less control.

**References:**

Interview with two private sector representatives in Tlemcen. The interviewees requested to be anonymous. September 2011.

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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## Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

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### 6.1. <sup>75</sup>Anti-Corruption Law

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#### 73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

**Yes** | No

#### References:

Law N° 06 – 01 for the prevention and the fight against corruption dated February 20, 2006. Title 4, Article 25, Section 1, Article 52.

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

**References:**

Cf. Criminal Code. Chapter 3 – Crimes and offences. Section 1 – Theft and Extortion, Articles 350 – 371

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption, February 20, 2006. Title 4, Article 25, Section 1.

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption dated February 20, 2006. Title 4, Article 25, Section 2.

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption, dated February 20, 2006. Title 4, Article 28.

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption, February 20, 2006. Articles 29 – 33.

**Yes:** A YES score is earned if using public resources for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption, February 20, 2006. Articles 29 – 33.

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes | No

**References:**

See Law N° 06 – 01 on the prevention and the fight against corruption February 20, 2006. Title 4, Article 42.

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

**References:**

See Criminal Code, Chapter 6 – Crimes and offenses, Section 1 – Articles 176 – 182.

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**References:**

See "L' Inspection Générale des Finances" or (IGF). Executive Order N°. 92 – 32, 20th January 1992, in Journal Officiel N° 6, 26 Janvier 1992, Page 148 Portant organisation des structures centrales de l'inspection générale des finances.

**Yes:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**No:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

## 75. Is the anti-corruption agency effective?

44

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes

No

**Comments:**

Loi n° 10- 11 du 19 Dhou El Kaada 1431 correspondant au 27 octobre 2010 portant approbation de l'ordonnance n° 10-05 du 16 ramadhan 1431 correspondant au 26 août 2010 complétant la loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative à la prévention et à la lutte contre la corruption.(JORA: 50).

**References:**

The protection can be found in the following law:

Loi n° 10- 11 du 19 Dhou El Kaada 1431 correspondant au 27 octobre 2010 portant approbation de l'ordonnance n° 10-05 du 16 ramadhan 1431 correspondant au 26 août 2010 complétant la loi n° 06-01 du 21 Moharram 1427 correspondant au 20 février 2006 relative à la prévention et à la lutte contre la corruption.(JORA: 50).

**Yes:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100

75

50

25

0

**Comments:**

This agency is under the supervision of the Executive.

**References:**

Interviews with the following in September 2011:

1. Two academics from the College of Law – University of Tlemcen.
2. Two journalists: Liberté and La Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

He can be removed without justification.

**References:**

The interviewees requested to be anonymous.

Interview conducted in September 2011.

Interview with a civil servant at the Ministry of Finance.

Interview with two academics at the College of Law – University of Adrar

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Appointments are based on qualifications first of all.

However, the appointee is someone with a clear and close link to the Head of State or the Executive. He is considered as Cabinet Minister and as such has close links with the Executive.

**References:**

The interviewees requested to be anonymous.

Interview conducted in September 2011.

Interview with civil servant at the Ministry of Finance.

Interview with two academics at the College of Law – University of Adrar.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The staff is full-time, but is still understaffed.

**References:**

Interviews conducted in September 2011 with the following:

1. Civil servant at the Ministry of Finance.
2. Two journalists: Liberté and La voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

All state agencies receive a regular salary.

**References:**

Interview with civil servant from the Ministry of Finance in September 2011. The interviewee requested to be anonymous.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports published.

**References:**

Interviews conducted in September 2011. The interviewees requested to be anonymous.

1. Two academics at the College of Law – University of Adrar.

2. Two journalists: Liberté and La Voie de l’Oranie.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency lacks significant powers which limit its effectiveness, because of the high and sometimes official interests which are very protected by government officials.

**References:**

Interviews conducted in September 2011: The interviewees requested to be anonymous.

1. Civil servant at the Ministry of Finance.

2. Two academics at the College of law – University of Adrar.

3. Two journalists: Liberté and La Voie de l’Oranie.

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency is under the command of the Executive Branch.

**References:**

Interviews conducted in September 2011 with the following:

1. Two academics at the College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l’Oranie.

The interviewees requested to be anonymous.

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

## 76. Can citizens access the anti-corruption agency?

0

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports available, no hot line. It lacks transparency

**References:**

Interview with respondents in September 2011:

1. Two academics from the College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l’Oranie.

The interviewees requested to be anonymous.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can write and complain to the agency. However, very few do because of the inefficiency of the outcome.

**References:**

Interviews conducted in September 2011 with the following:

1. Two academics from the College of Law – University of Adrar.
2. Two journalists: Liberté and La Voie de l’Oranie.

The interviewees requested to be anonymous.

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

## 6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

42

77a. In law, there is a general right of appeal.

Yes

No

### References:

There is a formal process of appeal for challenging criminal judgments. According to the Code de Procédure Penale and Code de Procédure Civil. [http://www.joradp.dz/JO6283/1966/047/F\\_Pag.htm](http://www.joradp.dz/JO6283/1966/047/F_Pag.htm)

**Yes:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**No:** A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100

75

50

25

0

### Comments:

It is a very lengthy process and needs lot of money.

### References:

Interviews conducted in September 2011 with the following:

1. Two academics at the college of Law – University of Adrar.
2. A former judge: Barka Fouad.

The academics requested to be anonymous.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is very expensive, which acts as a deterrent to engage in such a process.

**References:**

Interviews in September 2011 with the following respondents:

1. A former judge: Barka Fouad.
2. Two journalists: Liberté and La Voie de l'Oranie.

The journalists requested to be anonymous.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

---

## 78. In practice, do judgments in the criminal system follow written law?

100

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

Judgments in the criminal system are based on written law.

**References:**

Interview with two academics at the Law Department – University of Adrar in October 2011.

Interview by phone with a former judge, Barka Fouad, on February 16, 2012.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

---

## 79. In practice, are judicial decisions enforced by the state?

75

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

According to Mohamed chérif. Président de la Chambre nationale des huissiers de justice: « Le taux d'exécution des décisions a atteint 94% »

El Watan, 15 mai 2010. The full paper is on the following URL:

[http://www.algeria-watch.de/fr/article/just/taux\\_execution\\_decisions.htm](http://www.algeria-watch.de/fr/article/just/taux_execution_decisions.htm)

**References:**

Interview with a former judge, Barka Fouad.

Interview with two academics at the College of Law – University of Adrar.

The academics requested to be anonymous.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

---

## 80. Is the judiciary able to act independently?

69

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

### References:

Constitution 2008, Part 2, Chapter 3, Article 138, JORADP N°76 du 8 décembre 1996 modifiée par Loi n°02-03 du 10 avril 2002, JORADP N°25 du 14 avril 2002, Loi n°08-19 du 15 novembre 2008 JORADP N°63 du 16 novembre 2008

**Yes:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

**No:** A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

### Comments:

No judge is independent in practice. All are under the supervision of superiors and are pressured from various strong groups.

### References:

Interviews conducted with the following respondents:

1. A former judge: Barka Fouad.
2. Two journalists: Liberté and La Voie de l'Oranie.
3. Two academics at the College of Law – University of Adrar

Most interviewees requested to be anonymous.

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | **No**

**References:**

According to an interview with former judge Barka Fouad, the case assignment system is far from transparent.

**Yes:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**No:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

**Yes** | No

**References:**

According to the Loi 04-11 du 6 septembre 2004 portant statut de la magistrature. Loi organique 04-12 fixant la composition et le fonctionnement du Conseil Supérieur de la Magistrature. Journal Officiel N° 17, 14 Mars 2007.

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

---

## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

### References:

Interview with former judge Barka Fouad and a couple of journalists from Liberté and La Voie de l'Oranie in September 2011.

The journalists requested to be anonymous.

**Yes:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

### References:

According to interview with a former judge Barka Fouad and two journalists from Liberté and La Voie de l'Oranie.

Interviews conducted in September 2011 and the journalists requested to be anonymous.

**Yes:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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## 82. Do citizens have equal access to the justice system?

64

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82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no discrimination in the court.

**References:**

According to former judge Barka Fouad and two journalists from Liberté and La Voie de l'Oranie. conducted in September 2011.

The journalists requested to be anonymous.

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no bias toward women in court.

**References:**

According to a former Judge Barka Fouad and two journalists from Liberté and La Voie de l'Oranie.

The journalists requested to be anonymous.

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect

specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**References:**

Legal aid is provided automatically for defendants in criminal cases. Legal aid is defined in law No. 71-57 of August 5, 1971, amended by law No. 01-06 of May 22, 2001.

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

The aid is low but in theory there is a provision.

• Ordonnance n° 71-57 du 05 août 1971 relative à l'assistance judiciaire, modifiée et complétée.

Les personnes qui peuvent bénéficier d'une assistance judiciaire : (Article 1er. de l'ordonnance n° 71-57, modifiée et complétée) :

[http://www.mjustice.dz/html/?p=assistance\\_judiciaire](http://www.mjustice.dz/html/?p=assistance_judiciaire)

**References:**

Interviews with lawyer Hamadi in Tlemcen and a former judge Barka Fouad.

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

The fees start at \$200.

**References:**

Interview in September 2011 with two lawyers based in Tlemcen: Hamadi and G. Bouabdallah.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

Fees are high for an average business to engage in court.

**References:**

Interviews with two lawyers and two businessmen in Tlemcen in September 2011.

The interviewees requested to be anonymous.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

**Comments:**

In every big city and small town you have courts.

**References:**

Interviews with a former judge Barka Fouad and a barrister (who requested anonymity).

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

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## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

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83. Is the law enforcement agency (i.e. the police) effective?

92

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Qualifications are key for an appointment.

**References:**

Interview with a former judge and two lawyers met in Tlemcen in October 2011.

The interviewees requested to be anonymous.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**References:**

Interview with a former judge, Barka Fouad, two journalists from Liberté and La Voie de l'Oranie, and two academics from the Faculty of Law – University of Bechar. The journalists and academics requested to be anonymous.

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

It is linked and subordinated to the official institutions.

**References:**

Interview with a former judge, Barka Fouad, and a lawyer, G. Bouabdallah.

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 84. Can law enforcement officials be held accountable for their actions?

58

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

**Comments:**

Nothing like that is in the law.

**References:**

Interview with two academics at the College of Law – University of Tlemcen and the police chief at Tlemcen, in September 2011.

The interviewees requested to be anonymous.

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Does not apply.

**References:**

Interviews with the police chief in Tlemcen and two academics at the College of Law – University of Tlemcen.

The interviewees requested to be anonymous.

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

**Comments:**

It can be also the "la police judiciaire du DRS (Département de renseignement et de sécurité de l'armée). It is a normal jurisdiction which can take up cases by ministry officials, such as the case of the former Minister of Energy who was on trial in an ordinary tribunal, as well as civil servants (including law enforcement officials).

**References:**

Interview with two academics at the College of Law – University of Adrar. (They requested anonymity.)

**Yes:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | **75** | 50 | 25 | 0

**Comments:**

We have two prominent cases such as the Affaire Sonatrach where investigation has been started.

**References:**

Interview with two journalists from Liberté and la Voie de l'Oranie.

The interviewees requested to be anonymous.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

**Yes** | No

**Comments:**

There is no such provision or exception in any Algerian law.

**References:**

Interview with two academics at the College of Law – University of Adrar in September 2011.

The interviewees requested to be anonymous.

**Yes:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**No:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

The system is not 100 percent sure and efficient. In theory, there is the law which says nobody is above the law, but the reality is somehow different. Cabinet ministers can face accusation just as the Affaire Sonatrach shows and law enforcement officers can also face accusations and are not immune from misconduct charges.

**References:**

Interview with two journalists at Liberté and La Voie de l'Oranie who requested anonymity.

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

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