

Contemporary Legislative Trends in Combating Corruption Crimes within Companies: A Comparative Study in the Light of Algerian, American, British, and French Legislation

TENDENCIAS LEGISLATIVAS CONTEMPORÁNEAS EN LA LUCHA CONTRA LOS DELITOS DE CORRUPCIÓN EN LAS EMPRESAS: UN ESTUDIO COMPARADO A LA LUZ DE LAS LEGISLACIONES ARGELINA, ESTADOUNIDENSE, BRITÁNICA Y FRANCESA

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Abstract

This comparative analytical study is among the most prominent topics raised in contemporary criminal policy. It addresses the prevention and deterrence of corruption within companies, and presents the legislative trend of criminal policies adopted by both the Algerian, American, French, and British legislators. It highlights a qualitative shift in the framework of combating corruption, moving from the idea of punitive deterrence to establishing the concept of corporate preventive responsibility. Based on the study's focus on Algerian legal frameworks, with particular emphasis on Law No. 06-01, the amendments to the Penal Code in 2024, and the Code of Criminal Procedure in 2025, the study is compared with the U.S. legislation, namely the FCPA and its amendments under the FEPA Act of 2024, as well as the British legislation, the UK Bribery Act 2010, and the French legislation Sapin II and the duty of vigilance law.

Keywords: combating corruption; companies; punitive deterrence; preventive policy; comparative systems.

Resumen

Este estudio analítico comparado aborda una de las cuestiones más relevantes de la política criminal contemporánea: la prevención y la disuasión de la corrupción en las empresas. Examina las tendencias legislativas de las políticas criminales adoptadas por los legisladores argelino, estadounidense, francés y británico. Asimismo, pone de relieve un cambio cualitativo en el marco de la lucha contra la corrupción, caracterizado por la transición de la disuasión punitiva hacia la consolidación del concepto de responsabilidad preventiva empresarial. El estudio se centra en el marco jurídico argelino, con especial atención a la Ley n.º 06-01, las modificaciones del Código Penal de 2024 y el Código de Procedimiento Penal de 2025. Este marco se compara con la legislación estadounidense, en particular la Ley de Prácticas Corruptas en el Extranjero (FCPA) y sus modificaciones en virtud de la Ley de Prevención de la Extorsión Extranjera (FEPA) de 2024; con la legislación británica, concretamente la Ley contra el Soborno de 2010; y con la legislación francesa, especialmente la Ley Sapin II y la Ley sobre el Deber de Vigilancia.

Palabras clave: lucha contra la corrupción; empresas; disuasión punitiva; política preventiva; sistemas comparados.

Introduction :

Corruption is one of the current issues brought before the courts, as it has become one of the most significant challenges facing developed and developing states alike. It has spread throughout the public and private sectors, particularly within the corporate sector, where it poses a real threat to ensuring economic security in contemporary economic systems. Given the scale of financial transactions and commercial activities, and the growing role of legal entities in leading and shaping this activity through corporate leadership, economic crime—viewed through corruption-related crimes—has undergone complex structural transformations driven by the globalization of markets and the expanding economic influence of commercial companies. Corruption is no longer confined to isolated individual conduct; rather, it has evolved into organized institutional behavior that threatens economic stability and the integrity of corporate investment. This has required an immediate, comprehensive legal and judicial intervention to combat this type of corruption under contemporary criminal policy approaches, particularly in light of Algerian, American, French, and British legislation.

This study is of great importance in the context of these comparative legislative trends, starting with enriching them regarding modern preventive and deterrent methods for combating corruption within the corporate sector. Accordingly, it is necessary to highlight the most important features of comparative foundational and legislative shifts in adopting anti-corruption policy in terms of the establishment of the offense and the criminal penalty associated with it. In addition, the study aims to provide a critical analytical legislative vision of these contemporary legislative directions, foremost among them the Algerian and French legislators, due to their significant similarity in adopting penal provisions in this field. On this basis, the study seeks to define the contours of contemporary criminal policy for confronting corruption within companies, drawing on these leading international experiences: Algerian, American, British, and French.

This paper seeks to achieve a set of scientific and practical objectives, including: identifying the contours of contemporary legislative trends in adopting preventive and punitive provisions to address corruption crimes in companies; therefore determining the effective general legislative framework to be relied upon as a viable international model in this regard. It also aims to clarify the radical shift from the traditional deterrence idea based on imposing punishment to preventive institutional deterrence that targets economic entities, founded on governance and compliance as key mechanisms for combating corruption in the private sector. Consequently, it will examine and anticipate the nature of contemporary penalties and their deterrent effect under these approaches, and provide the necessary

recommendations to close gaps and achieve contemporary international integration in reducing manifestations of corruption within companies.

This topic raises many legal, judicial, and economic questions that can be summarized in a central problematique focused on how contemporary criminal policy can be structured for corruption crimes within companies, and the extent of the effectiveness of legal characterization of such crimes under modern legislative directions—from the perspective of establishing the features of the duality of criminal sanction between prevention and punishment, with a view to achieving an effective international legal direction in confronting corruption crimes within companies.

This study is governed by a set of scientific legal research methods that combine the analytical descriptive approach, along with comparative and inductive methods. This is done by studying and analyzing the legal and regulatory texts related to combating corruption in both the Algerian legal system and the foreign laws under consideration (“American, French, British”), and by clarifying the content and features of the preventive and deterrent mechanisms advanced by these legislative approaches through comparing them in determining such mechanisms in the Algerian system—from general to specific rules—between the amended and supplementary Criminal Code and the Law on Prevention of Corruption and Combating it. It will also address the American system through the FCPA and its amendments by the FEPA, the British system through the UK Bribery Act, and the French system through the Sapin II Law and the Duty of Vigilance Law. This requires moving from particulars to generalities in combating corruption within companies in order to control and clarify the extent to which these comparative legislative trends align, to draw on best practices, and to identify the necessary recommendations to close gaps and achieve international integration in this field.

To answer the proposed problematique and address it in detail, the topic has been divided according to a dual plan based on two main axes. The first axis addresses the preventive framework for combating corruption within companies through comparative study among these four countries: starting from compliance programs, codes of conduct, and internal reporting mechanisms in Algerian law, then moving through American and British law, and reaching French law. It then identifies the role of oversight bodies and institutional arrangements by adopting the duty of vigilance and risk assessment maps, among other preventive mechanisms. The second axis is devoted to studying the deterrent aspect—monitoring mechanisms and criminal sanctions—according to the same study pattern, beginning with criminal accountability of both natural and legal persons, and the scope of cross-border application in corruption crimes within companies. It then discusses the newly

introduced and modern judicial alternatives for prosecution, such as postponement of prosecution and DPAs/CJIP agreements, as well as financial and structural penalties.

First: The Preventive Aspect in Combating Corruption Patterns in Corporate Environments

Prevention, within modern legal thought, constitutes an essential pillar for shaping the features of contemporary criminal policy to protect the business sector. Legislative perspectives have shifted from merely waiting for criminal conduct to occur toward imposing proactive measures grounded in warning before the crime takes place, through adherence to a set of mandatory guidelines and instructions—such as compliance programs and reporting mechanisms, and observance of the duty of care and caution. Accordingly, this section will address and highlight the newly introduced preventive frameworks in the specified comparative legislations mentioned in the article title, in order to assess the extent to which companies are committed to adopting governance mechanisms and fair practices that prevent criminal exploitation of their economic activities. This will be done by examining, in particular, the obligation of companies to comply with transparency and corruption-prevention standards in light of these comparative legislative trends.

A_ In Algerian Law: The Necessity and Importance of Compliance with a Constitutional Principle

Algerian courts have witnessed significant economic and financial cases that attracted broad public attention, particularly after the popular movement of February 22, 2019 and the events that followed. At the forefront was the popular demand to combat corruption across various sectors, whether public or private. In practice, many of these cases were opened and brought before the Supreme Court within the framework of the privilege of litigation appeal (cassation). Most of these files—especially between 2019 and 2020—were characterized by a purely technical nature, because they related largely to favoritism in awarding public contracts and industrial real estate under the cover of investment; favoritism in granting major loans without guarantees or with insufficient guarantees; transferring foreign currency abroad; money laundering; covert financing of political parties; providing unjustified benefits to public officials and state employees; inflating import invoices for the purpose of smuggling funds; and other practices that violate the law on corruption and its prevention.¹

¹Guerroudj Raouf, Bachir Radhia, The Specificity of the Justice System in Countering Corruption Crimes in Algerian Legislation. La Particularité Du Système Dans La Lutte Contre Les Crimes De Corruption Dans La Législation Algérienne, Al-Bahith Journal for Academic Studies, Volume 9, Number 2, 2022, p 784_785

Whereas Law No. 06_01 relating to the prevention of corruption and its suppression aims to establish the principles of integrity, accountability, and transparency in the management of both the public and private sectors alike¹, This is in line with recent international expectations², However with regard to the preventive measures for the private sector—particularly what is provided for in Article 13 of the same Law, which calls for the adoption of measures to prevent this sector from being involved in corruption practices and to impose effective, appropriate disciplinary sanctions in the event of a violation—these measures include the following:

- Strengthening cooperation by reinforcing coordination between law-enforcement and suppression bodies and private-sector entities.
- Establishing standards and conduct through the adoption of controls and procedures that ensure the integrity of institutions and related professions, as a code of conduct, in order to carry out business activities in a proper manner that prevents conflicts of interest and promotes good commercial practices in dealings or contractual arrangements with the State.
- Transparency and oversight, by supporting transparency among private-sector companies, prohibiting the misuse of their regulated procedures for improper purposes, and activating internal auditing of accounts.

It is evident that these measures fall to state bodies to prevent corruption, without any explicit legislative provisions requiring commercial companies to adopt internal mechanisms to address the phenomenon. This legislative gap is clearly reflected in the absence of any compliance obligation with transparency standards in Order No. 03-03 concerning competition³, and in Law No. 04-02 governing the rules applicable to commercial practices⁴, despite the fact that Article 1 of the latter law is originally intended to ensure the integrity of dealings. The absence of such a legal requirement limits the effectiveness of anti-corruption efforts and constitutes a gap in the implementation of Article 9 of the Constitution, which requires ensuring transparency in the management of public affairs and protecting the national economy from all forms of embezzlement, bribery, or illicit trade, or abuse of power. In the same context, the Public Procurement Law, in its

¹ Law No. 06-01 dated February 20, 2006, Official Gazette No. 14, as amended and supplemented by Law No. 22-08 of May 5, 2022, establishes the organization, formation and powers of the High Authority for Transparency, Prevention and Combating of Corruption, Official Gazette No. 32, 2022.

² _ Presidential Decree No. 04-128, dated 29 Safar 1425 AH, corresponding to 19 April 2004, ratifies, with reservations, the United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on 31 October 2003 (Official Gazette, No. 26).

_ Presidential Decree No. 06-137, dated 11 Rabi' al-Awwal 1427 AH, corresponding to 10 April 2006, ratifies the African Union Convention on Preventing and Combating Corruption, adopted in Maputo on 11 July 2003 (Official Gazette, No. 24).

³ Order No 03-03 of 19 Jumada I 1424, corresponding to 19 July 2003, relating to competition, Official Gazette of Algeria, No. 25.

⁴ Law No. 04-02 of June 23, 2004, establishing the rules applicable to commercial practices, Algerian Official Gazette, No. 41, June 27, 2004

section related to combating corruption, places responsibility on the public procurement regulatory authority ¹.

- Preparing a professional code of ethics for parties involved in oversight and contract awarding, to be approved by the Minister of Finance, and requiring that monitors sign a declaration of no conflict of interest.

Here, a question arises regarding several reasons concerning why commercial companies are exempted from the same obligation to possess preventive codes of conduct—especially since Article 66 of the public procurement law excludes economic operators against whom final judicial rulings have been issued that affect their professional integrity from participating in tenders, without allowing their exclusion based solely on a “failure to comply with corruption-prevention standards.” This calls for making this compliance an additional essential condition in selecting a contracting party. In particular, the contracting operator must submit a declaration of integrity and, in a cautious manner, register the relevant economic operator in the list of economic operators prohibited from participating in public procurement contracts, a list maintained by the competent authorities of the Ministry responsible for finance ².

Despite the lack of a legally binding nature, some Algerian companies have nevertheless voluntarily adopted codes of conduct; such as Sonatrach, which introduced a public code of conduct in 2010 that included measures to combat corruption. However, these initiatives remained limited and lacked the required effectiveness because they did not focus on preventive mechanisms and detection procedures, as well as due to the absence of strictness in their implementation. This makes it necessary to subject them to stringent legislative and regulatory measures ³.

- The move toward establishing the Central Office for the Suppression of Corruption as a central operational body within the judicial police, specialized in investigating and probing corruption offences. This structure supports an adequately qualified administrative and technical staff, and is empowered to engage experts, advisory offices, and highly competent specialized institutions to gather evidence and uncover irregularities. The Office also carries out investigative, cooperation, and information-exchange tasks with other anti-corruption bodies. To ensure the effectiveness of its performance, the Algerian legislator has granted the judicial police officers attached to it comprehensive territorial jurisdiction across the entire national territory, and requires them to refer the cases that are discovered

¹ Law No. 23-12 dated 18 Muharram 1445, corresponding to 5 August 2023, establishing the general rules relating to public procurement, Algerian Official Gazette, No. 51, issued on 6 August 2023

² See the text of Article 66 of Law No. 23-12 relating to the general rules relating to public contracts under Algerian legislation.

³ Mouri Sofiane, The effectiveness of codes of conduct in preventing corruption comparative study, Annals of the University of Algiers 1, Volume 39, Issue 02, 2025, p 422

to the competent judicial authorities at the relevant territorial level, In addition, the Higher Authority for Transparency, as an independent constitutional regulatory institution created with the aim of promoting transparency in public life and reducing corruption, conducts periodic assessments of legal instruments and administrative measures and their effectiveness in the field of transparency and prevention. It receives declarations of assets, verifies their accuracy, and addresses them. It also strengthens principles of integrity in religious, charitable, and cultural activities, as well as in public institutions, preparing annual reports submitted to the President of the Republic and informing public opinion of their contents¹.

In the corresponding section, we confined ourselves to mentioning the offences of money laundering provided for in the Penal Code. In our view, this is because the offences stipulated in Law No. 01-05, as amended and supplemented, are punishable by fines only, and therefore these offences are typically complex, including those crimes² :

- All corruption offences provided for and penalized under the aforementioned Law on Prevention of Corruption and Its Suppression.
- All foreign exchange offences provided for and penalized pursuant to Order No. 96-22 dated 09 July 1996, relating to the suppression of violations of the legislation and regulations governing foreign exchange and the movement of capital to and from abroad.
- The misdemeanour of possessing a warehouse intended for smuggling, or a means of transport specifically intended for smuggling within the customs territory (Article 11 of Order No. 05-06 on combating smuggling as amended and supplemented), smuggling committed using a means of transport (Article 12), smuggling committed while carrying a firearm (Article 13), smuggling offences (Article 14), and the serious smuggling offence that threatens national security, the national economy, or public health (Article 15 of the same Law).³

It is noted here that the Algerian legislator limited the list to these offences, without including other economic and financial offences, which it did not place under the criminal jurisdiction of the “judicial pole.” These include tax evasion provided for in Article 303 of the Direct Taxes and Similar Taxes Law, and Articles 117 and 119 of the Value Added Tax Law, as well as various commercial offences such as fraudulent bankruptcy, in addition to offences provided for in the Monetary Law. In our view, the legislator should have added

¹ _ Kawther bouhazma, rabiaa naciri, Preventive policy to combat corruption crimes in Algerian legislation, Journal of Legal and Political Thought, Volume 9, Issue 2, 2025, p 1265_1266

_ Delloul Abdelhak, Delloul Abdelnour, Newly Established Oversight Bodies as Institutional Mechanisms for Combating Corruption Crimes in Algeria, A Study of the Effectiveness of the High Authority for Transparency, Prevention and Combating of Corruption and the Central Office for the Suppression of Corruption, Al-Nibras Journal for Legal Studies, Volume 09, Issue 01, 2025, p 143_147

² Law No. 05-01 of 27 Dhu al-Hijjah 1425, corresponding to 6 February 2005, relating to the prevention and combating of money laundering and terrorist financin, Amended and supplemented by Law No. 25-10 dated 28 Muharram 1447 AH, corresponding to 24 July 2025, Algerian Official Gazette, No. 48

³ Order No. 05-06 dated 18 Rajab 1426, corresponding to 23 August 2005, concerning combating smuggling, Algerian Official Gazette, No. 59

these offences, especially since many of them are characterized by complexity—particularly in the field of tax evasion, foremost among which are impersonation and document forgery, carried out to carry out commercial operations using stolen identities in order to evade taxes ¹.

b_ In American law: the Foreign Corrupt Practices Act (FCPA)

Economic crises, and the involvement of major U.S. companies in corruption cases, have driven the American legislator to safeguard the integrity of international transactions and the domestic economy that attracts investment. This is reflected in the adoption of the Foreign Corrupt Practices Act (FCPA), issued in 1977 and subsequently amended—where those amendments entered into force in November 1998—so that it became the leading worldwide and domestic legislation for combating economic corruption and matters related to companies. U.S. law-enforcement officials regularly stress in their public statements the priority given to prosecuting individuals, in addition to companies, for violations of the Foreign Corrupt Practices Act (FCPA). Since 2017, public criminal charges have been brought against more than 150 individuals for violating the FCPA; around 100 of them have pleaded guilty, while 12 individuals have been convicted following trials. During the same period, 38 companies entered into agreements with the U.S. Department of Justice to resolve criminal charges relating to violations of this Act. In a prominent case concerning the 1MDB scandal, a former executive of The Goldman Sachs Group Inc. was convicted after trial and was sentenced to ten years' imprisonment in 2023.²

This law requires commercial companies to ³ :

- Keeping books and accounting records that accurately reflect the truth of their financial transactions, thereby enabling investors to obtain a transparent financial picture.
- Imposing strict internal control and oversight measures.
- Prohibiting U.S. companies and foreign companies listed on U.S. stock exchanges from offering or paying bribes in order to secure the passage of international deals or contracts, even if the local laws of those foreign companies do not prohibit such conduct.

In contrast, the anti-bribery provisions of the Foreign Corrupt Practices Act apply to all U.S. persons and certain foreign entities that issue securities. The FCPA also requires

¹ Radhia Bachir, Raouf Guerroudj, op cit, p 788_789

² United Nations, OECD, Guidance on State Measures to Promote Business Integrity, United Nations Office on Drugs and Crime, United Nations Global Compact, Organisation for Economic Co-operation and Development, 2025, p 43

³ United Nations, Framework 6.4 Foreign Corrupt Practices Act (FCPA), Foreign Corrupt Practices Act Unit, UNODC Business Integrity Portal, <https://businessintegrity.unodc.org>

— Mouri Soufiane, The extent of commercial companies' compliance with anti-corruption standards – a comparative study, RULE OF LAW AND ANTI-CORRUPTION CENTER JOURNAL, volume 2021, issue 01, 2021, p 06

companies whose securities are listed in the United States to comply with its accounting provisions¹, Criminal violations of the accounting provisions are often coupled with a criminal charge related to bribery, but not always. Moreover, tax evasion resulting from the failure to record bribes properly may form the basis for pursuing criminal or civil enforcement actions².

These accounting provisions designed to operate in parallel with the anti-bribery requirements under the Foreign Corrupt Practices Act impose the above-mentioned conditions. Here, pursuant to Implementing Regulation No. 80.8 of this Act, the Attorney General, or the person delegated by him, within 30 days of receiving a request that complies with the prior procedures, shall respond by issuing an opinion stating whether the contemplated conduct would violate Sections 19-78dd and 2-78dd of Title 15 of the United States Code, for the purposes of the current enforcement policy of the Department of Justice. The Department of Justice may also take other positions or measures as it deems appropriate. If the Department requests additional information, it must provide its response within 30 days from the date it receives that additional information. This is without prejudice to a rebuttable presumption; such a presumption may be rebutted by establishing, with a preponderance of the evidence, that it is overturned. In weighing this presumption, the court, under the law, must consider all relevant factors, by way of example and not limitation³.

The clearest illustration of this is found in Advisory Opinion No. 22-1 issued by the U.S. Department of Justice in January 2022, which passed with little attention from compliance officers due to the lack of media momentum around it. The case concerns a maritime captain who, by mistake, entered the waters of a foreign country as a result of misleading information. Ultimately, he was imprisoned and his crew was held aboard the vessel. The applicant submitted documents showing that he was suffering from a critical medical condition that worsened due to the poor conditions of detention. When the competent authorities demanded USD 175,000 as a condition for their release and to prevent the seizure of the vessel, he attempted to exhaust all available avenues to verify the legitimacy of the amount and secure their release, without success. The Department of Justice's analysis concluded that paying the amount does not require prosecution under the Foreign Corrupt Practices Act because there was no intent to engage in corruption or bribery, or to obtain a business advantage; rather, the objective was to protect physical safety. This is

¹ See section 78 of title 15 of the united states code.

² U.S. Department of Justice, Criminal Division, Foreign Corrupt Practices Act Unit, <https://www.justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act>

³ Code of Federal Regulations (n.d.), 28C.F.R. Part 80 – Foreign Corrupt Practices Act Opinion Procedure, Legal Information Institute, Cornell Law School, Retrieved August 19, 2026, from <https://www.law.cornell.edu/cfr/text/28art-80/ppt>

consistent with compliance policies that permit exceptional payments when there is a direct threat to life or liberty, provided that the incident is documented and reported immediately¹.

In contrast, the U.S. legislator worked to curb illicit financing of funds and various corrupt practices in general, and within the private sector led by corporations, through ²:

- **Addressing gaps in the U.S. anti-money laundering system as a strategic objective:** so that, if this objective is achieved, the Department will steer and shape discussions among government agencies regarding any necessary improvements to anti-money laundering systems, including addressing emerging threats posed by digital assets.
- **Regular participation through interagency discussions on digital assets** with the Departments of the Treasury and Justice, Commerce, and the U.S. Agency for International Development, in accordance with Executive Order No. 14067.
- **Working with partners and allies to address gaps:** if this objective is achieved, the Department's partners and allies will have robust and sufficient systems to combat illicit financing at both the legal and enforcement levels. This could be done, for example, by facilitating national risk assessments for legal persons/legal arrangements with the program implementers; developing country-specific guidance manuals on beneficial ownership in jurisdictions that have weaknesses in this area; and providing technical assistance for compliance with Financial Action Task Force (FATF) recommendations. It will also include partnering with the Department of Justice and law enforcement agencies, and the Department of the Treasury through the "Disrupting High-Tech Financial Networks" program to help investigators develop skills such as tracing Bitcoin activity and investigating online fraud, as part of broader financial investigations and proactive efforts to disrupt illicit financial flows.
- **Reviewing transparency in government contracts and licenses relating to natural resources in the Financial Transparency Report (FTR),** and financing "support transparency" projects in extractive industries through the Financial Transparency Innovation Fund (FTIF).
- **Strengthening law enforcement efforts:** if this objective is achieved, the United States and foreign partners will have the tools and mechanisms needed to enforce foreign bribery laws and standards properly. This is reflected in supporting efforts to combat foreign bribery and money laundering of corrupt proceeds, as well as efforts to strengthen the recovery of assets linked to such conduct.
- **Updating the tools available to enhance accountability of corrupt actors within the country:** if this objective is achieved, the Department and its partners will have strong tools ranging from sanctions to visa restrictions and public naming and listing on public "corrupt" lists, to enhance accountability of corrupt actors. This will be demonstrated

¹ Mary Shirley, « The Essentials You Need to Know About FCPA Opinion Procedure Releases », Corporate Compliance Insights, September 21, 2022, available at : <https://www.corporatecomplianceinsights.com>

² U.S. Department of State, U.S. Strategy on Countering Corruption Implementation Plan, the Biden-Harris Administration released the first-ever U.S. Strategy on Countering Corruption, amirica, December 2021, P 15_26

through working with other agencies to support the implementation of the OECD Revised Public Procurement Recommendation 2021, which focuses on the demand side of bribery.

- **Working with partner countries to support the enforcement of anti-corruption laws and expand the use of the tools:** if this objective is achieved, the Department and its partners will seek to take advantage of anti-corruption law enforcement measures and to use tools such as sanctions to strengthen accountability and hold actors to account. This will be done in coordination with U.S. law enforcement bodies by funding projects to advance reforms and anti-corruption and reduce impunity in law enforcement and the criminal justice sector. This includes activities such as audits and pre-investigation screening, as well as capacity building for law enforcement institutions, the judiciary, and oversight bodies.

C_ In British law : emphasis on the offence of bribery

Over the past decade, the anti-bribery legal system in England and Wales has seen essential developments in the governing legislation for investigating bribery crimes and punishing their perpetrators, particularly in relation to companies and legal persons. The enactment of the Bribery Act 2010 constituted a radical shift in the mechanisms for enforcing anti-corruption laws. The most prominent development was the adoption of the principle of absolute/strict liability—albeit within a limited scope—and the expansion of the territorial scope of criminal liability for bribery offences. In February 2014, the Deferred Prosecution Agreements Scheme (DPAS) was introduced in the United Kingdom. After a slow start, these agreements became a common and increasingly important tool for settling breaches and institutional offences, especially those falling within the sphere of business and companies¹.

The UK Bribery Act 2010 is a cornerstone in combating corruption within companies in the United Kingdom. It is characterized by its broad worldwide scope, since it imposes strict criminal liability on companies, individuals, and commercial entities whenever it is established that they were involved in bribery offences. The law also applies to companies or partnerships established in the UK regardless of where in the world the bribery takes place, and it applies to foreign companies that carry on business—or part of a business—in the UK and Wales, England, pursuant to Article 9. It applies to three main offences under Articles 1, 2, and 7, covering bribing another person, bribery by receiving/rebating (i.e., accepting a bribe), and—most importantly—an institutional failure to prevent bribery. The core focus of all domestic bribery offences is “improper performance” of a function or activity in relation to a business, or any activity performed by or on behalf of a person or entity, whether corporate or not. It should be noted that Article 6 of the Act introduces an

¹ Mark F Mendelsohn, ANTI-BRIBERY AND ANTI-CORRUPTION REVIEW, LAWREVIEWS, Published in the United Kingdom, by Law Business Research Ltd, London Meridian House, 34-35 Farringdon Street, London, Printed in Great Britain by Encompass Print Solutions, Derbyshire, NINTH EDITION, 2020, p 102

offence concerning bribing a foreign public official in order to obtain or retain business, or to obtain an advantage in the conduct of business¹.

Within the framework of combating corruption offences within companies, as legal entities, the introduction of Article 7 represents the most important development in the bribery law. It established an offence based on “absolute/strict liability” (Strict Liability), which makes it possible to convict and legally hold liable the relevant commercial institutions solely for their failure to prevent a bribery offence committed by a “person associated with them².” In contrast, the commercial entity may defend itself and obtain acquittal for the charge of failure to prevent bribery if it proves that it had put in place adequate and appropriate procedures specifically designed to prevent persons associated with it from committing bribery offences³.

By emphasizing the text of Article 7 thereof, we find that the British legislator has focused on corruption offences within companies, centering on bribery. The law introduced a new offence punishing commercial entities if they fail to prevent persons associated with them—employees, agents, and intermediaries—from committing bribery on its behalf. This is done alongside the full and sole right of defence for companies: indeed, the entity may fully exonerate itself if it proves before the court that it was applying “adequate and rigorous procedures” to prevent bribery in both forms—consistent with the approach taken by the Algerian, American, and French legislators, as well as various contemporary legislative trends that criminalize bribery. The key principles that represent the United Kingdom’s anti-corruption strategy within companies include⁴:

- **The principle of proportionate procedures (Proportionate Procedures)** : Under this, anti-bribery policies must be proportionate to the size of the company, the nature of its business, and the extent and complexity of the risks it faces. Small companies may be sufficiently served by periodic, informal measures, whereas multinational companies require written and detailed policies. The procedures involved include financial controls, rules on offering gifts and hospitality, and whistleblowing systems.
- **The principle of top-level commitment (Top-level Commitment)** : This means embedding a culture of zero tolerance for bribery at the senior management level (board of directors or owners). This commitment is reflected through issuing public official statements, direct oversight of the design of policies, and leading by example in integrity and transparency.

¹ The law does not differentiate between bribery of individuals in the private sector and bribery of public officials, as it does not distinguish between them as independent crimes.

² Ministry of JUSTICE, THE bribery act 2010, Guidance about procedures which relevant commercial organisations can put into place to prevent persons associated with them from bribing (section 9 of the Bribery Act 2010),

P 6_8

³ The ministry has published a guidance manual, in addition to the current bribery and corruption offenses in Sweden and Wales : CMS Cameron McKenna, A guide to existing bribery and corruption offences in England and Wales, London, April.2010

⁴ Ministry of JUSTICE, op cit, p 20 _40

- **The principle of risk assessment (Risk Assessment)** : The company must conduct periodic and documented assessments of the internal and external risks that may expose it to bribery, particularly when operating in countries where corruption levels are higher—such as those related to extractive industries (oil and mining) and infrastructure—along with partnership-related risks, such as engaging intermediaries or dealing with politically exposed persons. In addition, internal risks must be considered, such as the lack of employee training, the absence of financial controls, or the existence of a bonus/remuneration system that encourages excessive risk-taking.
- **The principle of due diligence (Due Diligence)** : This highlights the need for continuous investigation and scrutiny of the background and integrity of persons or entities providing services for the company, such as suppliers and intermediaries. This measure is a crucial risk-management tool; for example, contracting with an intermediary to open up external markets requires a very high level of due diligence and research, compared with contracting for simple services such as information technology.

D_ In French law: a qualitative shift building on the Sapin 2 Law

the French legislator has adopted a system of strict preventive measures that commercial companies must comply with if they have more than 500 employees and if their turnover exceeds EUR 100 million. These mandatory measures are represented by ¹:

- Drafting codes of conduct that define practices that may give rise to suspicions of corruption.
- Establishing an internal alert and reporting system (vigilance) in the event of breaches of the codes of conduct.
- Preparing a risk-mapping exercise to identify the risks that the company may face and to regularly assess its business partners.
- Activating “internal and external” accounting oversight to prevent the concealment or cover-up of any corrupt acts.
- Organizing periodic training courses for employees to raise awareness of corruption risks and the misuse of influence.
- Imposing strict disciplinary sanctions for violations of the rules, coupled with ongoing monitoring to assess the effectiveness of these measures.

In contrast, in 2016 France adopted the Law on Transparency, Combating Corruption and Modernizing Economic Life, known as the Sapin 2 Law, which strengthened the preventive component of France’s anti-corruption framework. This was done by requiring large companies to put in place corporate programs for the prevention of corruption, with penalties for non-compliance, and by establishing a general protection mechanism for whistleblowers. The law also created the French Anti-Corruption Agency (AFA), tasked with supporting both the public and private sectors in preventing and detecting bribery, the

¹ Mouri Soufiane, The extent of commercial companies’ compliance with anti-corruption standards – a comparative study, op cit, p 07

misuse of influence, the extortion of public officials, the obtaining of illicit profits, misappropriation of public funds, and favoritism. It also introduced new enforcement tools, including an additional penalty requiring legal persons convicted of bribery to implement compliance and internal remedial programs in accordance with Article (131-32-1) of the Criminal Code, alongside the “Judicial Public-Interest Settlement Agreement” (CJIP). This is a non-trial measure under Article (41-1-2) of the Code of Criminal Procedure, intended to accelerate the settlement of prosecutions related to economic crimes and bribery of local and foreign public officials, as well as criminalizing trading in influence associated with foreign public officials under Article (435-2) of the Criminal Code¹.

On the one hand, achieving consistency with the relevant international standards, such as the United Nations Convention and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, enhances companies’ ability to operate within sound and integrated legal frameworks. In this regard, governments may adopt a proactive role by coordinating with other jurisdictions in order to spare multinational companies the burden of having to comply with disparate requirements regarding their corporate compliance programs. From a practical perspective, the French Anti-Corruption Agency published in 2023 a comparative study examining the legal frameworks and practices adopted in France, the United States, the United Kingdom, and the World Bank Group, reviewing the requirements imposed on companies in those legislative environments, with a view to ensuring that the French legal framework enables companies, through their compliance with it, to put in place effective anti-corruption compliance programs as part of their growth and expansion strategies abroad, thereby ensuring the reduction of corruption risks while meeting the highest international standards ².

- **The Duty of Vigilance as a core pillar to address corruption in corporate practices (Duty of Vigilance)**

The French law issued on 27 March 2017 has required certain companies to establish, implement, and periodically publish a “vigilance plan.” This plan aims to identify and prevent violations that affect human rights, fundamental freedoms, the health and safety of individuals, or the environment—whether resulting from the company’s direct or indirect activities and those of the companies under its control, or from the practices of subcontractors and suppliers that maintain an ongoing commercial relationship with it, Under this law, the vigilance plan must include five essential elements:

_ Preparing a risk map.

¹ Kamal Hassan, Mashaallah Alzwae, Adel Dalaf, Reflections on Combating Corruption Crimes at the International Level Al-Mukhtar Journal of Legal sciences, volume 03, issue 1, 2025, p 210

² United Nations, OECD, Guidance on State Measures to Promote Business Integrity, United Nations Office on Drugs and Crime, op cit, p 17_ 18

_ Establishing procedures for the periodic assessment of subsidiaries, suppliers, and subcontractors based on that risk map.

_ Adopting appropriate measures to mitigate risks or prevent the occurrence of serious harm.

_ Drafting a mechanism for receiving reports and complaints, prepared in consultation with representative trade unions within the company.

_ Putting in place a system to monitor the measures taken and to assess their effectiveness.

In contrast, it must be emphasized that the “Duty of Vigilance” applies to French companies whose workforce, together with their direct and indirect subsidiaries, exceeds 5,000 employees in France or 10,000 employees worldwide, by the end of two consecutive fiscal years. Any interested party may issue a formal notice to such obligated companies to prompt them to develop, publish, and implement the plan. If the company fails to comply within three months, the court may—upon the request of the interested party—order the company to fulfill its obligations, which may be accompanied by the imposition of a coercive fine. Failure to comply may also give rise to civil liability of the company, requiring it to compensate for the damages resulting from its failure. The court is also empowered to order the publication of its judgment, or an excerpt from it, or to have it displayed on a large scale.¹

It is also worth noting that the obligation to establish the anti-corruption prevention and detection measures provided for in Article 17 of the “Sapin 2” law rests primarily on the company’s chief executive officer—namely the chairman of the board, the chief executive officer, or the managing director. Regardless of this personal responsibility, the legal person, i.e., the “company,” is also held liable. The measures provided for in paragraph (2) of this article are intended both to prevent and detect acts of corruption committed in France and those committed abroad, while also targeting the prevention of corruption in both the public and private sectors.

- **Mandatory measures:**

The law provides for eight specific measures, and Article 17 of the “Sapin 2” law requires companies that meet the conditions set out in the first item (1) to adopt the following measures and procedures ²:

¹ Ibid, p 18_19 .

² Baptiste Péciaux, DISPOSITIF ANTICORRUPTION DE LA LOI SAPIN II, Guide pratique pour la mise en œuvre des mesures anticorruption imposées par la loi aux entreprises, Transparency International France, France, 2017, p.10_13

_ **Adopting a code of conduct** that defines and clarifies the various types of prohibited behaviors that may constitute acts of corruption or influence peddling, integrating this code of conduct into the company's internal rules, and subjecting it, accordingly, to the consultation procedures of employee representatives provided for in Article L.1321-4 of the Labour Code.

_ **Establishing an internal reporting system** (an alert or whistleblowing mechanism) designed to enable the receipt of reports submitted by employees concerning conduct or situations that violate the company's code of conduct.

_ **Drawing up risk maps**, in the form of documents that are updated regularly, aimed at identifying, analyzing, and prioritizing the risks of the company being exposed to external pressures or offers for corrupt purposes or influence peddling. This is to be done according to the company's business sectors and the geographical areas in which it operates.

_ **Client, supplier, and intermediary due diligence procedures**, based on the approved risk map.

_ **Accounting controls procedures** (internal or external), intended to ensure that books, records, and accounts are not used to conceal acts of corruption or influence peddling. These controls may be carried out either by the company's internal accounting and financial audit departments, or by engaging an external auditor ("auditor") when conducting certification audits of accounts provided for in Article 823-9 of the Commercial Code.

_ **An innovative feature of this law** is that it allows the company's chief executive officer to bear personal liability where the company does not comply with the anti-corruption prevention and detection measures provided for in Article 17. Accordingly, the CEO must personally ensure that the company is equipped with an anti-corruption program that complies with French law.

_ **Having a training program** aimed at senior executives and employees who are most exposed to risks of corruption and influence peddling.

_ **Establishing a disciplinary system** enabling the punishment of company employees in the event that they violate the company's code of conduct.

- **Measures and procedures put in place:**

To increase the effectiveness of the French judiciary in combating corruption and certain financial crimes, the "Sapin 2" law issued on 9 December 2016 introduced a new dispute-settlement mechanism: the Judicial Public-Interest Agreement (CJIP). This agreement allows the public prosecutor (the Attorney General) to offer a company suspected of corruption an arrangement under which the judicial proceedings are terminated in exchange for the company, in particular, paying a substantial financial fine to the French

treasury—up to 30% of its turnover—subjecting itself to a compliance and monitoring program, and compensating the victims ¹.

It should be noted that although this agreement does not include the company's admission of guilt and is therefore not recorded on the judicial record, it must necessarily be adopted and approved by the trial judge. Moreover, a public-interest settlement agreement cannot be presented to natural persons, even if they are the legal representatives of the company that concluded the settlement. This modern approach, which the Algerian legislator has followed in reordering and regulating the provisions and rules of the new Code of Criminal Procedure, Law No. 25-14, is reflected in the establishment of the system of deferred prosecution of legal persons. Under Articles 105 and 106 thereof, the Public Prosecutor may, before initiating public prosecution, enter into an agreement with the private (non-public) legal person subject to the law that is implicated in, or is an accomplice or partner in, one or more of the crimes provided for in Article 106 below, whereby deferred prosecution against it is agreed, in return for the restitution of the funds, property, and proceeds that were disposed of or transferred outside the national territory, or the equivalent of their value, as well as the payment in full of the amounts due to the public treasury and to the public parties harmed by the crimes attributed to it. These include, inter alia, the misdemeanors provided for in ²:

_ Article 119 bis and Articles 418 and 419 of the Penal Code

_ The law on the prevention of corruption and its combating, with the exception of bribery offenses

_ The law on suppressing violations of the exchange and capital movement legislation and regulations from and to abroad

_ The legislation relating to combating smuggling

_ The currently applicable legislation concerning invoicing

_ The Monetary and Banking Law

_ The legislation relating to the securities exchange

_ Customs law

_ The misdemeanors of tax evasion and tax fraud provided for in tax and financial legislation

¹ Ibid, p 10

² Law No. 25-14 dated 8 Safar 1447 AH, corresponding to 3 August 2025, containing the Code of Criminal Procedure, Official Gazette of Algeria, No. 54

Second: The Deterrent Aspect to Ensure Integrity in Companies

Focusing on combating corruption in companies is not sufficient if it relies solely on a preventive policy. Contemporary criminal policy has, in addition to prevention, adopted criminal deterrence targeting both natural persons and legal persons—the company itself—in corruption offenses committed within corporate environments. This will be addressed in this axis by examining, in particular, the analysis of prosecution mechanisms and newly introduced deterrent rules, highlighting the structural transformations in rules of criminal jurisdiction, as well as negotiated alternatives to criminal prosecution. Furthermore, it will identify and explain the nature of the penalties provided for in comparative legal systems and in Algerian legislation.

A_ In Algerian Legislation

The Algerian legislator is particularly strict regarding the application and enforcement of criminal sanctions when it concerns corruption. This is based on the duality of criminal sanction—both penalties and security measures—applicable to both natural and legal persons. Regardless of the various financial or custodial penalties imposed on natural persons, legal persons are, in parallel, subject to a set of sanctions that fit their nature. Since a company is considered a legal person, its involvement in corruption operations requires it to be subject to the provisions governing criminal liability and the application of penalties proportionate to the criminal conduct it committed, in accordance with the conditions set forth in Article 51 bis of the Algerian Penal Code, as amended and supplemented by Law No. 24-06, which revisited and precisely established the conditions for subjecting legal persons to the rules of criminal liability.¹

Based on the text of the above Article, the company is considered a legal person—but one belonging to the private sector without the public sector—and therefore it is held criminally liable for any crimes it commits, whatever the form it takes, or whatever the purpose for which it was established (whether charitable or philanthropic), whether civil or commercial, and regardless of the form of its management, and regardless of the number of its shareholders, subject to Article 417 of the Algerian Civil Code and Article 549 of the Algerian Commercial Code. Accordingly, the penalties applied to the company under Algerian law are:

- **Within the framework of the amended and supplemented Penal Code by Law No. 24-06**

¹ Article 51 bis of Law No. 24-06 of April 28, 2024, published in the Algerian Official Gazette, No. 30, stipulates that : « With the exception of the State, local authorities, and legal entities subject to public law, a legal entity shall be criminally liable for crimes committed on its behalf by its organs, legal representatives, or those authorized by it, when so provided by law.

The criminal liability of a legal entity does not preclude the liability of a natural person as a principal or accomplice in the same acts. »

_ Original penalties provided for the legal person

The pecuniary fine constitutes an effective and deterrent penalty for the legal person, because it is proportionate to the nature of the financial crimes it commits, such as embezzlement and bribery in order to achieve unlawful profits. This penalty is characterized by being the most flexible and easiest to collect and enforce, as well as by causing fewer economic harms than others.

Article 18 bis of the Penal Code provides that the fine imposed on the legal person in felonies and misdemeanors ranges from one time (1) to five times (5) the maximum fine prescribed for the natural person. Accordingly, the maximum fine for the legal person in bribery and embezzlement crimes in the private sector reaches 2,500,000 DZD, considering that the maximum penalty for the natural person for the same offense is 500,000 DZD, in accordance with Articles 40 and 41 of the Law on Prevention of Corruption and Combating it.

_ Ancillary penalties provided for the legal person

The legislator has specified the ancillary penalties for the legal person under Article **18 bis**, which are:

- _ Dissolution of the legal person.**
- _ Closing the head office or one of its branches for a period not exceeding 5 years.**
- _ Prohibition from exercising activity through direct or indirect ban on carrying out a professional or social activity for a period not exceeding 5 years.**
- _ Exclusion from public contracts for a period not exceeding 5 years.**
- _ Confiscation of the thing used in committing the offense or resulting from it.**
- _ Placing under judicial supervision for a period not exceeding 5 years.**
- _ Publication of the conviction judgment or suspension thereof.**

• Within the framework of Law No. 06–01 on combating corruption, as amended and supplemented by Law No. 22–08

_ Bribery of public employees: pursuant to Article 25, it is punishable by imprisonment from two (2) to ten (10) years and a fine from 200,000 DZD to 1,000,000 DZD.

_ Bribery in the private sector: pursuant to the provisions of Article 40, it is punishable by imprisonment from six (6) months to five (5) years and a fine from 50,000 DZD to 500,000 DZD.

_ **Unjustified advantages in the field of public contracts:** pursuant to Article 26, it is punishable by imprisonment from two (2) to ten (10) years and a fine from 200,000 DZD to 1,000,000 DZD.

_ **Embezzlement of property in the private sector:** pursuant to Article 41, it is punishable by imprisonment from six (6) months to five (5) years and a fine from 50,000 DZD to 500,000 DZD.

_ **Intentional concealment of proceeds obtained from one of the crimes provided for in this law:** pursuant to Article 43, it is punishable by imprisonment from two (2) to ten (10) years and a fine from 200,000 DZD to 1,000,000 DZD.

_ **Unlawful exemption and reduction in tax and fees:** pursuant to Article 31, it is punishable by imprisonment from five (5) years to ten (10) years and a fine from 500,000 DZD to 1,000,000 DZD.

_ **Conflict of interest:** pursuant to Article 34, it is punishable by imprisonment from six (6) months to two (2) years and a fine from 50,000 DZD to 200,000 DZD.

_ **Taking benefits unlawfully:** pursuant to Article 35, it is punishable by imprisonment from two (2) to ten (10) years and a fine from 200,000 DZD to 1,000,000 DZD.

_ **Bribery in the field of public contracts:** pursuant to Article 27 of the same law, it is punishable by imprisonment from ten (10) years to twenty (20) years and a fine from 1,000,000 DZD to 2,000,000 DZD.

_ **Undisclosed financing of political parties:** pursuant to Article 39, and without prejudice to the applicable criminal provisions in force, it is punishable by imprisonment from two (2) to ten (10) years and a fine from 200,000 DZD to 1,000,000 DZD.

B_ In the United States of America:

Under the Foreign Corrupt Practices Act (FCPA) in the United States, a natural or legal person who offers a bribe to a foreign public official may face criminal penalties for the act of bribery, or, if the bribe is offered on behalf of an exporting entity subject to the U.S. securities laws, criminal or non-criminal penalties for bribery, as well as for violations relating to accounting records or internal control requirements. Civil violations of this Act require a lower evidentiary standard compared to criminal violations. Intentional criminal liability may be imposed on corporate persons and individuals with knowledge thereof, in connection with compliance with the Act's requirements for accounting records and internal controls. Criminal violations of accounting provisions are often, but not always, accompanied by a criminal charge related to bribery. Failure to record the bribe properly

may also form the basis for initiating criminal or civil enforcement actions for the resulting tax evasion. The most important penal laws in this regard are as follows¹:

- **Foreign Extortion Prevention Act (FEPA): criminalizing the demand side of bribery**

The Foreign Extortion Prevention Act (FEPA) codified in Title 18, Section 1352 of the United States Code entered into force in July 2024 under the 2023 Technical Corrections Act, primarily targeting the “demand side” in international bribery cases. This law complements the Foreign Corrupt Practices Act (FCPA); it prohibits any foreign official (or any person selected for that position) from doing the following:

_ **Criminalized conduct:** requesting, soliciting, receiving, accepting, or agreeing to accept any payments or benefits, whether directly or indirectly.

_ **Means:** using the mail or any means of interstate commerce, and it has been updated to account for technological developments by including electronic mail and digital media used in connection with electronic commerce—an approach supported by other legal systems such as the Algerian and French systems, as well as by British domestic laws, and even under international agreements concluded in observance of the limits of national sovereignty.

_ **Purpose:** taking particular actions or decisions intended to facilitate obtaining business or retaining business.

_ **Covered categories:** FEPA aligns with FCPA in identifying the entities and individuals from whom a foreign official is prohibited from accepting bribes. It includes exporters and local companies under the definitions in 15 U.S.C. §§ 78c(a) and 78dd-2), including their officers, directors, employees, agents, or shareholders acting on their behalf. In addition, under 15 U.S.C. § 78dd-3, it applies to natural or legal persons if the foreign official—or anyone acting on the foreign official’s behalf—is present within U.S. territory during the commission of the act.

_ **Penalties and enforcement limits:** the law imposes strict penalties under 18 U.S.C. § 1352(b)(2), namely Imprisonment up to 15 years, and Monetary fine up to \$250,000, or payment of three times the value of the thing of value offered or requested (whichever is greater).

The importance of the Foreign Extortion Prevention Act (FEPA) lies in ensuring corporate integrity by fundamentally transforming internal compliance strategies and directly closing the legal gap that had previously characterized earlier legislation. While the Foreign

¹ United Nations, OECD, Guidance on State Measures to Promote Business Integrity, United Nations Office on Drugs and Crime, op cit, p 43

Corrupt Practices Act (FCPA) focused exclusively on punishing companies that offer bribes, the new law criminalizes the foreign official who requests bribes. This legislative balance gives companies legal protection and substantive immunity: it enables executive management and employees with a decisive legal tool to refuse any international governmental extortion demands, based on the premise that responding to such demands would place the foreign official himself under criminal prosecution by the U.S. Department of Justice. The law also requires companies to comprehensively update their compliance programs and internal governance systems to avoid severe penalties that extend to employees, agents, and shareholders. This new legal reality in combating corporate corruption has driven companies to adopt stringent policies for enhanced due diligence when dealing with external parties or local agents in international markets, to ensure that they do not facilitate or satisfy unlawful requests.

C_ In British law: introducing the offense of “failure to prevent bribery”

The British anti-bribery law (in force since 1 July 2011) is considered among the strictest anti-bribery regimes in the world. It created a criminal offense of “failure by a commercial organization to prevent the offering of a bribe for its benefit or on its behalf.” The law prohibits British companies from offering any unlawful inducements _ including cash payments or excessive hospitality _ intended to influence others. The resulting penalties include imprisonment of up to 10 years for executives, and the imposition of substantial fines on companies. Accordingly, all companies conducting business in the United Kingdom _ regardless of their nationality_ are required to adopt adequate preventive measures published by the UK Ministry of Justice in March 2011, which are based on ¹ :

- A clear understanding of the organization’s size and the nature of its activities.
- Periodic, detailed analysis and review (due diligence) of the company’s corruption risks.
- Pre-application of anti-corruption preventive standards, their review, and regular evaluation.d_ The punitive approach to corruption offenses in France and application-related issues

D_ The punitive approach to crimes of corruption in France and the problems of implementation

The French legislator distinguished between two forms of corruption: first, active corruption, which occurs when an official accepts a bribe—such as by accepting gifts or other offers—without having requested them, but instead uses their position to pursue their own interests. Second, passive corruption, which occurs when the employee initiates the request for a bribe or a monetary payment in order to carry out a specific task. This is

¹ Mouri Soufiane, The extent of commercial companies’ compliance with anti-corruption standards – a comparative study, op cit, p 07

consistent with the legislative approach of Algeria, where corruption is defined as negative bribery and positive bribery under the anti-corruption law ¹.

Article 18 of Law No. 1691 of 2016, dated 9 December 2016, inserted a new provision—Article 131-39-2—into the Criminal Code. It states that : “Legal persons may be sanctioned where their responsibility for corruption and influence over financial and commercial operations has been established, by means of a sanction consisting of a Compliance Program for Integrity (PPMC), and by requiring them to comply with the implementation of an anti-corruption compliance program for a maximum period of five years, under the supervision of the Agency.” The purpose of this is to bring France into line with foreign models for combating corruption.

The Agency (AFA) must submit a report on the implementation of the sanction to the public prosecutor, at least once every year upon the prosecutor’s request. The Agency must also submit a report upon expiry of the time limit for implementing the sanction, as soon as any difficulties arise in preparing or implementing the compliance program. Such difficulties include those encountered in conducting inspections and reviews under the program, such as access to documents, reviewing the mechanisms applied on site, interviewing the persons whom the Agency considers necessary, and so on. It also relates to the comments that the Agency sends simultaneously to the entity concerned and to the public prosecutor.²

Business leaders face significant risks when committing corruption offenses; the penalties imposed on them include imprisonment and fines linked to criminal proceeds, whose amounts were increased under the 2025 Anti-Drug Act. As for legal persons, the French legislator adopted specific monitoring mechanisms, the most prominent of which is the mandatory compliance program arising from the “Sapin II” law. Accordingly, in corporate anti-corruption enforcement, the corporation—being a legal entity—while its management is carried out by a natural person, is treated as the responsible party in the sense that its wrongdoing is addressed through the natural person(s) who manage it, much like the latter.³ :

- **Principal penalties imposed on natural persons:**

A person is punished for corruption of a national public official, whether it is passive corruption (Article 432-11 of the Criminal Code) or active corruption (Article 433-1), with the following penalties:

_ Imprisonment: up to 10 years.

¹ Tallouti othemane, Conceptuel framework for the phenomenon of corruption, Journal of Humanities and Social Sciences, volume 02, issue 07, 2021, p 232

² Mohamed Fathi Mohamed Ibrahim, The French Anti-Corruption Agency’s Efforts in Combating Corruption, Spirit of the Laws Journal, Issue 93, 2021, pp. 685-686

³ Agathe Lengereau, Corruption en France : quelles sanctions pour les personnes physiques et morales ?, Lengereau Avocat, 101 avenue Raymond Poincaré, 75016 Paris, 31/3/2026, <https://www.lengereau-avocat.fr>

_ Monetary fine: €1,000,000, or twice the financial proceeds obtained from the offense; the fine is increased to €2,000,000 or twice the proceeds if the offense is committed within the framework of an organized group.

_ The same sentencing rules apply to corruption offenses involving foreign public officials or officials of international organizations, pursuant to Articles 435-1 and 435-3 of the same Code.

If the offense involves bribery of members of the judiciary (Article 434-9), the basic penalties are the same, and sentencing may be increased to 15 years' imprisonment if the judge is involved for or against a person convicted of a felony, pursuant to Article 434-9.

- **Corruption in the commercial sector:**

This covers active corruption under Article 445-1 and passive corruption under Article 445-2, committed by persons working in the private sector. The penalties are:

_ Imprisonment: 5 years.

_ Fine: €500,000, or twice the value of the profits resulting from the offense.

Under the 2025 legislative amendment, the 2025 Anti-Drug Act introduced a new deterrent sentencing policy: if private corruption is committed through an organized group, the penalty is aggravated to 10 years' imprisonment and a fine of €1,000,000, pursuant to Article 445-2-2.

- **Accessory and supplementary penalties for natural persons:**

The scope of punishment is expanded to include additional measures that directly affect the professional and civil activity of those convicted:

_ Prohibiting the convicted person from holding public office or engaging in the business activity that was used to commit the offense, including a ban on serving in roles of management, direction, or supervision in any commercial company, pursuant to Articles 432-17 and 445-3.

_ Removal of civil rights and disqualification from running for office, including mandatory disqualification from electoral candidacy under the law of 15 September 2017 (Article 131-26-2 of the Criminal Code).

_ If the convicted person is a member of the Government or holds an elected public office, the period of disqualification may be extended to 10 years, as a legislative exception (Law No. 2013-907).

_ Confiscation of instruments used in the offense or the financial proceeds (Article 131-21).

_ Judicial order to publish the conviction in the media. For foreign nationals, the court may order deportation and a permanent ban from entering French territory, or a ban not exceeding 10 years (Article 435-14).

- **Criminal liability of legal persons (“companies”):**

A company may be convicted of a corruption offense and face criminal punishment for that offense. French criminal law provides that legal persons (companies) are subject to financial penalties (fines) up to a maximum of five times the maximum fine applicable to natural persons. Thus, a company convicted of corruption involving a public official may face a fine up to €5,000,000 or ten times the financial proceeds resulting from the violation.

In addition, the Sapin II law provides an administrative penalty of €1,000,000 for companies that do not comply with the obligation to implement measures to prevent and detect corruption (paragraph 3 of Article 17). It also provides a supplementary penalty in the form of “mandatory compliance and remediation” for companies convicted of corruption, requiring the company to implement a compliance and monitoring program for a maximum of 5 years, with the convicted company bearing its costs. Within the framework of a Judicial Public-Interest Agreement (CJIP), the company may be required to accept payment of a public-interest fine amounting to up to 30% of its revenue. In addition, the company may be required to pay compensation for damages to victims. It may also be required to pay the costs of legal proceedings, as well as the costs of the monitoring and compliance program if so stipulated in the judicial agreement (e.g., hiring experts)¹.

- **The mechanism for multiplying financial fines**

Article 131-38 of the Criminal Code provides that the maximum fine imposed on companies equals five times the fine prescribed for individuals; and, accordingly, it is applied such that² :

_ The maximum fine applicable to legal persons equals five times the fine prescribed for natural persons under the law that provides the penalty for the offense.

_ Where the law does not provide for a fine applicable to natural persons for a given offense, the fine applicable to legal persons is €1,000,000.

¹ Baptiste Péciaux, op cit, p 14_17

² Article 131-38, Modifié par Loi n°2004-204 du 9 mars 2004 – art. 55 , JORF 10 mars 2004

_ Additional preventive measures targeting business activity (Articles 131-39)

Article 131-39 of the Criminal Code authorizes the court to impose structural penalties that may threaten the company's investment and operational capacity, including ¹ :

_ Prohibiting the company from carrying out the activity during which the offense was committed, for up to five years.

_ Placing the entity under judicial supervision for up to five years.

_ Temporary or definitive closure of its establishments, up to five years.

_ Exclusion and disqualification from participating in public procurement contracts and public tenders for a maximum period of five years.

_ Prohibiting the company from issuing securities for a public offering (initial public offering), or banning the issuance of cheques and the use of credit payment cards.

• **Mandatory Compliance Program Sanction (PPMC) under the “Sapin 2” Law**

The “Sapin 2” law, enacted on December 9, 2016, provides for a long-term structural penalty consisting of the “Anti-Corruption Compliance Program” (PPMC), as provided for in Article 131-39-2 of the Criminal Code. This program is imposed on companies convicted of corruption or influence peddling for a maximum period of 5 years and is subject to strict oversight by the French Anti-Corruption Agency (AFA). Under it, the company is required to implement the following remediation mechanisms²:

_ Drafting and adopting a strict anti-corruption code of conduct.

_ Establishing an internal alert system for reporting violations.

_ Preparing an accurate risk map to identify corruption vulnerabilities and influence peddling.

_ Activating periodic due diligence procedures for customers, suppliers, and commercial intermediaries.

_ Developing an accounting control framework (internal and external).

_ Implementing ongoing training programs for managers and employees most exposed to corruption risks.

¹ Article 131-39, Modifié par LOI n°2014-790 du 10 juillet 2014 – art. 12

² Article 131-39-2 – Code pénal, Modifié par Ordonnance n°2023-1142 du 6 décembre 2023 – art. 31

Conclusion

In conclusion, we can say that contemporary criminal policy directions, reflected in both Algerian and American legislation, with reference to the British and French approaches, in combating corruption crimes within companies, have shifted from a punishment-based model that adopts traditional criminal liability, to a more precise and simpler model based on an anticipatory approach for establishing liability rules. This is grounded in the preventive policy of companies, whereby the company becomes the direct responsible party for the integrity of its internal environment by imposing precautionary measures and compliance mechanisms through establishing binding regulatory rules. Compliance programs, codes of ethics and conduct, and whistleblowing protection systems constitute the first line of defense for preventing transgressions, deviations, and corrupt practices within the company. This has led to the adoption of advanced legal obligations, such as the “Duty of Vigilance,” and the activation of the role of specialized national bodies and agencies in supervising, monitoring, and keeping institutional compliance under review.

By contrast, the rules and provisions governing corporate criminal liability in corruption cases and crimes have developed in order to go beyond the problem of the “fictional person,” by enshrining dual criminal liability standards for both natural and legal persons. Thus, procedural economic justice was not adopted through simplified mechanisms such as deferred prosecution of legal persons and agreements on deferred judicial prosecution (DPAs/CJIP) between the similarities and differences of the legal systems under comparative study in combating corruption crimes within companies.

Results of the study:

- This study showed that contemporary criminal policies no longer limit themselves to punishment deterrence alone, but have moved toward adopting prevention policies within the framework of corporate governance and its regulation.
- The comparative legislations under study relied on the duality of criminal policy in combating corruption within companies, moving from prevention toward establishing criminal liability rules under procedural and punitive diversification consistent with developments in the current legal and judicial situation.
- The Algerian, American, French, and British systems all share the adoption of procedural jurisprudence based on restorative justice foundations, or negotiated criminal prosecution alternatives—such as deferred prosecution of legal persons and deferred judicial agreements—aiming to achieve a balance between deterring corruption and avoiding corporate insolvency.
- A legal gap and loophole is evident between the general principle and constitutionality in Algerian law regarding the regulation of anti-corruption provisions. Despite the Algerian legislator’s response to constitutional aspirations and Algeria’s commitment to international treaties to entrench integrity and transparency through Law

No. 06-01 on the prevention of corruption and its combating, and the Penal Code and the recent amendments to the Code of Criminal Procedure (including deferred prosecution of legal persons), Algerian legislation still suffers from a regulatory vacuum limited to requiring compliance mechanisms in limited sectors. Moreover, commercial law and competition law do not expressly provide, in an imperative manner, for private companies to adopt codes of conduct or self-assessed risk maps as a mandatory approach like the contemporary punitive trend in both American and British legislation.

- American law (FCPA & FEPA) and British law (UK Bribery Act) show a marked superiority in formulating rules applicable beyond the borders of the state (extraterritorial jurisdiction) in combating corporate corruption and ensuring corporate integrity. Accordingly, both aspects of “request” and “offer” in international bribery are criminalized, along with advanced reliance on “deferred prosecution agreements” (DPAs) to encourage disclosure and self-compliance. This is similar to the Algerian and French approach in criminalizing bribery between passive and active conduct.
- The French model under the “Sapin 2” law and the creation of the “French Anti-Corruption Agency” (AFA) represents a pioneering, balanced international model combining strict criminal financial penalties and structural sanctions, as a punishment for a mandatory compliance program (PPMC). This makes it a successful experience in combating corruption within companies.
- Comparative legal analysis shows that the British legislator is a pioneering global experience in reshaping corporate criminal liability through Article (7) of the Bribery Act, which established an independent, self-standing offense: “failure of a commercial organization to prevent bribery.” The company is not exempted from imposing punishment unless it proves that it adopted adequate and appropriate preventive measures to prevent the occurrence of the crime. This means that the existence of compliance programs is a legal requirement for exemption from liability, not merely a regulatory option, within the context of corporate governance and anti-corruption measures in all their manifestations.

Recommendations of the study:

- The Algerian legislator should expressly provide for the obligation of commercial companies—especially large ones—to establish, implement, and execute compliance programs that include a code of conduct, and to activate an internal alert and reporting system without neglecting periodic and continuous accounting due diligence for corruption prevention.
- States should include an independent offense concerning “company failure to prevent corruption,” in line with British legislation, by criminalizing companies’ failure to prevent their employees or agents from providing improper benefits. At the same time, the company should be granted its judicial rights, such as the plea of innocence if it proves the application of adequate and strict compliance procedures.
- Efforts should be made to establish a specialized body to support and monitor institutional compliance within the framework of legal and economic international cooperation. This can be done by supporting and expanding the powers of the “High

Authority for Transparency, Prevention of Corruption and Its Combating” in Algerian legislation to play a role similar to the French Agency (AFA), through issuing guidance manuals and assisting Algerian companies in drafting effective compliance programs that enhance their competitiveness and ensure protection of the national economy.

- Work should be undertaken to review and amend national legislation to the extent that achieves criminal effectiveness in confronting corporate corruption crimes, by integrating mandatory compliance mechanisms and closing legal loopholes through more precise and specific legal provisions, especially at the level of Algerian legislation.
- It is recommended to establish penalties that are compatible with and adapt to modern technological developments. This is particularly necessary given the emergence of artificial intelligence (“AI robot”) and the expansion of new forms of criminalization through legislation on corporate liability for corruption in the age of technological development, with the requirement to activate internal monitoring and auditing mechanisms.
- Enhance integration between the administrative and criminal systems in confronting corruption within companies. This should be done by building an administrative procedural system based on governance, and by moving toward adopting procedural alternatives based on simplification and settlement before complicating prosecution procedures.
- It is essential to require private institutions and companies to adopt clear policies aimed at combating corruption and strengthening the legal and judicial protection of whistleblowers, while facilitating the process of reporting suspicious activities within the company or outside it that are related to corrupt operations.
- Strengthen international cooperation in combating corporate corruption by deepening partnerships between the private sector, governments, and national and international organizations, and by benefiting from effective leading expertise in narrowing the gap between the effectiveness of anti-corruption measures and the challenges of reality.
- Develop, support, and strengthen national and international efforts to benefit from the analytical study of legal frameworks aimed at combating corruption in general and within the company in particular. This should be done by unifying visions and diversifying procedural mechanisms for combating, while respecting the national sovereignty of states.

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