



Modern Investigation and Inquiry Methods in Algerian Criminal Procedure Law

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Abstract:

The amended Criminal Procedure Code grants judicial police officers broad investigative powers, including exceptional measures that affect constitutional rights and require legal safeguards. Traditional tools proved inadequate against evolving transnational and cybercrime. Recent reforms introduced special techniques to strengthen enforcement while ensuring oversight, aligning national procedures with international standards.

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Introduction:

The shift to digital telecommunication has redefined private messaging, rendering mobile exchanges vulnerable to covert interception. To counter advanced criminality, forensic agencies employ intrusive technologies to identify offenders. As these methods infringe on personal and communicative integrity, strict legal safeguards are essential. Hence, contemporary legal systems embed such techniques within exceptional procedures for grave offenses.

In response to escalating organized and transnational criminality, and in line with Algeria's accession to key supranational instruments, comprehensive legislative recalibration has become imperative. Instruments such as the Arab Anti-Terrorism Protocol (Decree No. 98-413)¹, the OAU Protocol (Decree No. 2000-79)², the UN Convention on Terrorism Financing (Decree No. 2000-455)³, and the UN Protocol against Transnational Organized Crime (Decree No. 02-55)⁴ impose obligations ranging from forensic cooperation and surveillance enhancement to financial transparency and procedural harmonization. Notably, Article 20 of the latter compels the institutional integration of advanced investigatory techniques—e.g., controlled deliveries, covert surveillance, and undercover operations—within domestic legal frameworks, contingent upon national legal compatibility⁵.

¹ Presidential Decree No. 98-413 dated 7 December 1998, ratifying the Arab Convention on the Suppression of Terrorism, signed in Cairo. Published in the Official Gazette No. 93 on 13 December 1998, p. 4.

² Presidential Decree No. 2000-445 dated 23 December 2000, ratifying the International Convention for the Suppression of the Financing of Terrorism. Published in the Official Gazette No. 01 of 3 January 2001, p. 10.

³ Presidential Decree No. 2000-79 dated 9 April 2000, approving Algeria's accession to the Convention of the Organization of African Unity on the Prevention and Combating of Terrorism, adopted during the OAU's 35th Ordinary Session held in Algiers (12–14 July 1999). Published in the Official Gazette No. 30 of 28 May 2000, p. 3.

⁴ Presidential Decree No. 02-55 dated 5 February 2002, ratifying the United Nations Convention against Transnational Organized Crime. Published in the Official Gazette No. 09 of 10 February 2002, p. 61.

⁵ Law No. 06-22 of 20 December 2006, amending and supplementing Ordinance No. 66-155 on the Code of Criminal Procedure. Published in the Official Gazette No. 84 of 24 December 2006, p. 4.

Consequently, to fulfill international statutory obligations, Algeria's procedural legal system underwent significant revision through Law No. 06-22 dated December 20, 2006⁶, inserting pivotal legislative subdivisions into the second investigative division: Chapter IV, governing "Digital Communication Capture, Auditory Documentation, and Visual Documentation," and Chapter V, addressing the methodology of "Covert Operational Deployment". This corresponds to the new Code of Criminal Procedure, promulgated by Law No. 25-14 dated August 3, 2025. Specifically:

Chapter IV (Articles 114 to 119): Covers the interception of correspondence, recording of sounds, and capturing of images.

Chapter V (Articles 120 to 127): Covers infiltration (undercover operations).

In recognition of these statutory adaptations, the current scholarly examination systematically addresses two principal investigatory dimensions: Firstly, scrutinizing sophisticated methodologies pertinent to digital monitoring procedures; Secondly, dissecting covert operational deployment strategies within Algeria's contemporary criminal justice framework.

TOPIC I: DIGITAL MONITORING TECHNIQUES

The statutory authority in Algeria firmly entrenches protections related to individual intimacy and the sanctity of personal exchanges and communications, irrespective of modality or medium. Such protections can solely be abridged by explicit judicial mandate substantiated by adequate justification, as outlined within the forty-seventh provision of Algeria's constitutional revision enacted in the year 2020. Infractions upon these guarantees invoke penal repercussions delineated specifically by Article 303 of the revised Algerian Criminal Legislation⁷, which asserts penalties encompassing custodial sanctions ranging from a minimum duration of thirty days to a maximum span of twelve months, alternatively or cumulatively accompanied by financial penalties ranging between twenty-five thousand and one hundred thousand Algerian Dinars, applicable to any unauthorized malicious interference with or destruction of privately directed written communications or mail, excluding circumstances explicitly prescribed by Article 137 of said legislation⁸.

Article 303 bis, under Law No. 06-23, imposes 6–36 months' imprisonment and fines of 50,000–300,000 DZD for deliberate infringements on individual privacy, notably including:

1. Unauthorized interception, archival, or transmission of private verbal exchanges devoid of explicit consent from the individual concerned.
2. Illicit visual capture, archival, or dissemination of images depicting individuals in secluded contexts, absent their explicit approval.

Article 303 bis 1 extends equivalent penalties to those who retain, share, or exploit unlawfully obtained audio-visual content. This reflects Algeria's firm legislative stance on safeguarding personal privacy and communicational integrity. Nonetheless, in strict adherence to the constitutional amendment ratified in 2020—specifically articulated within its third paragraph of Article forty-seven, which establishes unequivocally: "The sanctity inherent to personal existence and the confidentiality pertaining to interpersonal exchanges and communications, irrespective of their method, shall exclusively be subjected to compromise by a substantiated judicial directive emanating from a duly empowered authority".

⁶ Law No. 06-22 of 20 December 2006, amending and supplementing Ordinance No. 66-155 on the Code of Criminal Procedure. Published in the Official Gazette No. 84 of 24 December 2006, p. 4.

⁷ Ordinance No. 66-156 of 8 June 1966, as amended by Law No. 06-23 of 20 December 2006, modifying and completing provisions of the Algerian Penal Code. Published in the Official Gazette No. 84 of 24 December 2006.

⁸ Article 137 of the Penal Code (as amended by Law No. 06-23) stipulates that any public official, civil servant, or mail agent who refuses, destroys, misappropriates, or facilitates the illegal handling of correspondence shall be punished with imprisonment from three months to five years and a fine ranging from 30,000 to 500,000 Algerian Dinars.

Algerian law authorizes judicial police to deploy digital surveillance—interception, audio capture, and visual recording—for probing serious crimes. To balance privacy with evidentiary needs, such powers are strictly reserved for judicially sanctioned agents, operating within the procedural bounds of the Criminal Procedure Code. Articles 114 to 119 of the CPC regulate surveillance practices, defining their scope, methods, and procedural safeguards.

First: The Conceptual Essence of Correspondence Monitoring, Visual Documentation, and Auditory Archiving

Article 114 permits authorized prosecutors or judges to intercept wired or wireless communications in urgent cases involving flagrant crimes, drug trafficking, organized crime, cyber offenses, terrorism, money laundering, currency violations, or corruption. The adoption of the conceptual construct "correspondence monitoring" by the Algerian legal authority originates from earlier legislative precedents within French jurisprudence, specifically encapsulated under Article 706-95 of France's Criminal Procedural Codex utilizing the term "interception des correspondances," subsequently adopted verbatim into Arabic statutory translation⁹.

The CPC omits a formal definition of correspondence monitoring, focusing instead on surveilled mediums—electronic messages via wired or wireless networks—aligned with foreign practices. It also prescribes a structured procedural sequence, including:

- Electronic interception combined with archival registration, expressly mandated under.
- Subsequent to these interception-archival undertakings, policing personnel specifically empowered or delegated by the Investigatory Magistrate are obligated to systematically compile official documentary reports detailing every individual interception and archival activity, as per identical statutory provision.

authorizes judicial and policing entities to enlist telecom experts—public or private—for technical support in surveillance under Article 114. further permits linguistic specialists to interpret foreign-language communications. This monitoring process is procedurally complex and inherently covert, involving multiple stages and restricting awareness to authorized personnel. As clarified in Article 114, individuals are not informed, and all private or communal exchanges—verbal or visual—may be intercepted without consent. This underscores the profound impact on communicational privacy. Communication interception demands advanced technical tools and expert personnel, with authorizing delegation to specialists to manage its complex, confidential operations.

Second: Parameters Governing Applicability of Communicational Monitoring Procedures

Legislative analysis reveals that Algerian law omits clear definitions of targeted communications, focusing instead on transmission mediums—wired or wireless—without regard to content or context. Article 117 refers broadly to "transmissions susceptible to interception," while Chapter IV emphasizes real-time, mobile surveillance. Article 114 reference to "one or more individuals" suggests that anyone linked to a suspect may be monitored.

Third: Safeguards Governing Communication Monitoring

Given the intrusive nature of surveillance methods—interception, audio recording, and visual capture—such tools are limited to authorized judicial police under exceptional circumstances. To reconcile investigative needs with constitutional privacy protections, the law imposes strict safeguards, including:

A. Conditional Employment Restriction for Communicational Monitoring Necessitated by Investigational Urgency

⁹ Ben Yagoua Hanane, *Special Investigative Techniques in Algerian Legislation: A Comparative Legal Study*, Doctoral Thesis in Public Law, University of Algiers 1, Benyoucef Benkhedda, Academic Year 2015/2016, p. 18.

The revised Article 114 of the amended CPC specifies explicitly: "Under urgent investigational circumstances involving immediately identified perpetration or preliminary inquiries into certain specified offenses, the duly empowered prosecutorial authority retains discretionary powers to formally sanction interception operations targeting transmissions conducted via wired or wireless technological methodologies". The statute grants judicial authorities discretionary power to assess investigative urgency, enabling informed authorization of interception measures.

B. Explicit Delimitation of Offenses Permitting Application of Communicational Interception

Article 114 confines interception to grave offenses: drug trafficking, organized crime, cybercrime, money laundering, terrorism, currency violations, and corruption—underscoring its use only in high-risk cases.

C. Judicial Exclusivity Governing Authorization of Communicational Interception Procedures

Legislative norms explicitly delegate authorization jurisdiction for interceptive monitoring exclusively to prosecutorial authorities or Investigatory Magistrates, conditioned explicitly upon specific investigational scenarios and distinctive offense characteristics. Specifically, in circumstances involving immediate criminal detection or preliminary investigative phases, prosecutorial authorities exclusively retain authorization prerogatives. Conversely, subsequent to formal initiation of judicial investigatory proceedings, exclusive jurisdictional prerogative transitions to the Investigatory Magistrate as codified explicitly within Article 65 bis 5 of the amended CPC.

According to Article 117 of the revised CPC, formal interception authorization mandates explicit inclusion of:

- Comprehensive informational parameters enabling precise delineation of transmissions and visual subjects intended for systematic monitoring.
- Explicit identification of all locations encompassed within interceptive operations, whether private domiciles or public premises.
- Detailed description explicitly delineating the nature of the criminal activity warranting interception and the stipulated interception duration.
- Written authorization explicitly mandated for formal validity.

Non-adherence to explicit statutory prerequisites unequivocally nullifies communicational interception operations, rendering evidentiary materials acquired thereby categorically inadmissible due to procedural illegitimacy.

Moreover, constitutional provision Article 47 (2020 amendment) explicitly necessitates judicial substantiation regarding directives infringing upon individual seclusion and transmission sanctity. Notwithstanding such explicit constitutional prerequisites, textual scrutiny reveals legislative silence regarding an explicit statutory obligation demanding justification within interception authorization directives.

Concerning authorization duration, statutory clause Article 117 explicitly defines maximal interception duration limits not exceeding four months, renewable contingent upon explicitly determined investigational imperatives and procedural necessities.

Statutory analyses explicitly reveal exclusive operational execution jurisdiction delegated to formally authorized judicial policing personnel, inherently representing an additional protective regulatory precaution safeguarding individual privacy and communicational confidentiality. Such explicit delegation underscores legislative intentionality for stringent procedural governance explicitly designed to mitigate inherent intrusiveness characteristic of interception operations.

Supplementary protective mechanisms under Article 119 of the amended CPC explicitly mandate that, upon interceptive procedural conclusion—whether directly executed by judicial policing personnel or through explicitly delegated specialized operatives—an explicit report documenting intercepted

communicational exchanges, visual evidentiary captures, or recorded auditory exchanges bearing investigative relevance must be systematically compiled and subsequently incorporated explicitly within the relevant judicial investigative dossier.

THE SECOND TOPIC: COVERT OPERATIONAL TECHNIQUES (UNDERCOVER INFILTRATION)

The Algerian statutory framework meticulously codifies covert operational techniques within Articles 120-127 of the revised Criminal Procedural Codification (CPC). The ensuing discourse will firstly elucidate the definitional construct associated with covert operations, followed subsequently by explicit procedural conditions governing their application.

First: Conceptual Clarification of Covert Operational Techniques

Provision 121 of the CPC explicitly articulates covert operational activity as follows:

"A law enforcement operative vested with procedural oversight responsibilities undertakes discreet surveillance of targeted suspects purportedly involved in criminal felonies or misdemeanors through deliberate misrepresentation of affiliation, thus projecting an apparent role either as a confederate participant or as an intended beneficiary of proceeds stemming from illicit conduct".

Second: Regulatory Precautions Governing Covert Operational Activities

The Algerian statutory authority has delineated rigorous protective parameters associated explicitly with undercover operational methodologies. These stringent conditions encompass the following essential dimensions:

A. Conditional Deployment Based on Investigational Imperatives

Article 120 of the revised CPC explicitly articulates:

"Should explicit exigencies within preliminary investigative or formal judicial inquiry stages necessitate implementation, prosecutorial authorities or Investigatory Magistrates, subsequent to formal notification of prosecutorial bodies, may sanction undercover operational execution exclusively within established statutory frameworks and procedural guidelines."

Accordingly, this legislative articulation explicitly delegates discretionary appraisal regarding investigational indispensability exclusively to competent judicial oversight entities.

B. Explicit Statutory Delimitation of Offenses Permitting Covert Deployment

The legislative apparatus explicitly delineates specific offenses subject to undercover operational deployment exclusively within the parameters enumerated in Article 120 of the revised CPC, inclusive specifically of:

- Illicit narcotic trafficking-related offenses.
- Cross-border organized criminal syndicate activities.
- Cyber-related criminal acts targeting data-processing infrastructures.
- Financial asset laundering infractions.
- Activities associated explicitly with terrorist enterprises.
- Violations of regulatory frameworks governing monetary exchange.
- Criminal offenses involving corrupt practices.

C. Judicial Exclusivity for Undercover Operational Authorization

Article 65 bis 11 assigns covert operation authorization to either the Public Prosecutor or Investigatory Magistrate. The prosecutor holds authority during immediate detection or preliminary inquiry, while the magistrate assumes it post-investigation initiation, upon formal prosecutorial referral. Under explicit

stipulation, mandatory elements within operational authorization documentation explicitly encompass:

- A comprehensive narrative delineating specific criminal activities warranting covert deployment.
- Explicit identification of the judicially designated policing operative responsible for operational execution.
- An obligatory written directive delineating explicit authorization.

Non-compliance with these explicit statutory conditions unequivocally invalidates undercover operational procedures, rendering all evidentiary data acquired therefrom categorically inadmissible on grounds of procedural illegitimacy.

D. Explicit Mandate for Procedural Justification of Undercover Operational Authorizations

explicitly imposes the statutory obligation mandating explicit justification within undercover operational authorization directives. This statutory stipulation harmonizes precisely with Article 47 of the 2020 Constitutional amendment explicitly necessitating formal judicial justification within directives potentially impinging upon individual seclusion and confidentiality of communications. Contrastingly, statutory provisions related to communicational interception procedures lack explicit obligations mandating justification.

E. Temporal Limitations Governing Operational Authorization

Explicit statutory temporal limitations, of the CPC restrict operational authorization explicitly to a four-month duration, renewable explicitly under identical formal criteria based upon demonstrable investigative indispensability. Furthermore, judicial oversight entities retain explicit discretionary authority to revoke operational authorization prematurely prior to the expiration of stipulated temporal constraints. Upon operational conclusion, authorization documentation must explicitly be incorporated within the corresponding investigative dossier, in compliance explicitly with statutory directives articulated in the final paragraph of said provision.

F. Explicit Assignment of Responsibility for Operational Execution

Explicit statutory language within Article 121 of the CPC allocates operational execution responsibility explicitly to judicial policing operatives or duly empowered policing agents operating explicitly under direct oversight and procedural responsibility of the designated judicial policing coordinator.

Notably, statutory provisions explicitly authorize judicial entities to assign operational execution explicitly either to a policing operative or designated policing agents, explicitly contrasting with communicational interception practices exclusively restricted to judicial policing operatives due to inherently intensified privacy infringement implications. This distinction reflects explicit legislative appraisal acknowledging relatively moderated risk profiles associated explicitly with covert operational infiltration methodologies. empowers prosecutors to terminate covert operations at any point if deemed necessary. In urgent cases where immediate cessation is unfeasible, operations may continue—under strict safeguards—for up to four months, with mandatory prosecutorial notice. The same rule applies if operations exceed authorized timeframes without formal renewal.

Statutory provision explicitly authorizes judicial policing operatives and operationally designated agents explicitly employing fabricated identity constructs explicitly during covert operations, as explicitly stipulated under Article 121, second paragraph, CPC. Additionally, explicit statutory language within explicitly mandates nondisclosure of actual operative identities explicitly throughout judicial procedural phases

Under explicit statutory language contained explicitly within, policing operatives executing undercover activities explicitly retain statutory authorization explicitly enabling operative conduct encompassing explicitly enumerated actions devoid explicitly of incitement liabilities, explicitly conditional upon explicit statutory compliance to avoid procedural nullification, encompassing specifically:

- Acquisition, possession, transit, provision, or dissemination explicitly involving illicitly acquired or criminally utilized financial assets, informational resources, materials, products, or documentary evidence.
- Explicit operational deployment facilitating criminal perpetrators with explicit accessibility to financial instruments, legal resources, transportation modalities, custodial repositories, concealment facilities, preservational infrastructures, or communicational apparatuses.

Explicit statutory analysis indicates rigorous protective parameters explicitly established surrounding covert operational procedures surpass those explicitly governing communicational interception methodologies, particularly in relation explicitly to explicit justification mandates explicitly within operational authorizations. Contrarily, interception directives notably lack equivalent explicit statutory mandates for explicit justification obligations.

Furthermore, explicit statutory provisions delineate specific temporal constraints explicitly limiting undercover operational authorizations explicitly to an explicitly defined four-month duration, explicitly renewable precisely once explicitly under identical procedural constraints. Conversely, communicational interception authorizations retain explicit identical four-month temporal stipulations, explicitly devoid of explicit statutory delineations explicitly regarding renewable iterations explicitly and explicitly vesting renewal discretionary authority explicitly to authorization-issuing entities explicitly.

Conclusion:

Ultimately, the recent integration of sophisticated forensic methodologies into the procedural criminal codification represents an indispensable legislative adaptation corresponding to accelerated technological evolution, alongside escalating phenomena associated with cross-border criminal syndication and cybernetic delinquency. Additionally, these procedural refinements epitomize Algeria's adherence to supranational legal instruments pertaining to contemporary penal regulation, thereby necessitating domestic statutory alignment through embedding intricate investigative strategies within its jurisdictional corpus. Recognizing inherent potential for incursions upon personal autonomy and liberties, legislative authorities have meticulously embedded stringent regulatory constraints intended explicitly to circumscribe operational execution, thereby forestalling potential malfeasance by responsible procedural enforcement entities.

Nonetheless, despite their evident investigative utility, these advanced procedural modalities embody an inherent ambivalence. Specifically, whilst they undeniably furnish indispensable instruments facilitating factual ascertainment and rigorous pursuit of criminal actors, notably those presenting elevated societal risks, judicious implementation remains paramount to safeguarding procedural equity, preserving due process integrity, and rigorously upholding fundamental entitlements inherent to individual dignity and liberty.

"Covert procedural engagement denotes operative activities executed discreetly by policing personnel or delegated agents explicitly accountable under authoritative judicial oversight".

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