

Prevention and Control of Illegal Construction on State Lands in Algeria: A Legal Analysis *Cezayir’de Devlet Arazileri Üzerindeki Kaçak Yapılaşmanın Önlenmesi ve Denetlenmesi: Hukuki Bir Analiz*

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Öz

Bu çalışma, Cezayir’de kaçak yapılaşmanın artması karşısında devlet arazilerinin korunmasına yönelik hukuki çerçeveyi analiz etmeyi amaçlamaktadır. Araştırma, devlet arazi yönetimini düzenleyen yasa ve kararnameler de dahil olmak üzere ilgili yasal ve düzenleyici metinleri ile kamu ve özel devlet mülkleri üzerindeki el koymaların önlenmesi ve ortadan kaldırılmasına ilişkin öngörülen prosedürleri inceleyen hukuki-analitik bir yöntem benimsemektedir. Bu analiz aracılığıyla mevcut hukuki çerçevedeki çeşitli yapısal eksiklikler tespit edilmiştir. Bu eksiklikler arasında devlet arazilerinin yönetiminden sorumlu çeşitli idari kurumlar arasındaki yetki dağılımındaki belirsizlikler, aralarında etkin koordinasyon mekanizmalarının yokluğu ve yasadışı yapıların önlenmesi ile bastırılmasına yönelik mevcut hukuki araçların yetersizliği sayılabilir. Çalışma ayrıca yargısal denetimin zayıf kaldığı durumlarda yıkım ve tahliye kararlarının uygulanmasında icra makamlarının karşılaştığı güçlükleri de ele almaktadır. Cezayir idare mahkemelerince verilen yargı kararlarından yararlanılarak araştırma, mahkemelerin devlet arazileri üzerindeki el koyma davalarını nasıl ele aldığını ve yargı müdahalesinin kamu mülklerinin korunmasına ne ölçüde katkı sağladığını ortaya koymaktadır. Bulgular, nispeten kapsamlı bir hukuki araçlara sahip olunmasına rağmen bunun pratikteki uygulamasının idari ve usule ilişkin engeller nedeniyle sınırlı kaldığını ortaya koymaktadır. Çalışma, devlet arazilerinin hukuki koruma mekanizmalarını güçlendirmeye, kurumlar arası koordinasyonu iyileştirmeye ve tahliye ile yıkım kararlarının etkin biçimde uygulanmasının sağlanmasında yargısal denetimi güçlendirmeye yönelik bir dizi öneriyle son bulmaktadır.

Anahtar Kelimeler

Devlet arazileri, Hukuki koruma, Kaçak yapılar, Yıkım, Yargısal denetim, Yasadışı ve kaçak yapılaşma

Öne Çıkanlar

- Bu çalışma, Cezayir’de devlet arazileri üzerindeki kaçak yapılaşmayı düzenleyen mevcut hukuki çerçevenin, etkin uygulama ve kurumlar arası koordinasyon eksikliği nedeniyle yetersiz kaldığını savunmaktadır.
- Devlet arazi yönetiminden sorumlu idari kurumlar arasındaki yetki çatışmaları, kamu mülklerinin korunmasını zayıflatan temel yapısal sorunlardan birini oluşturmaktadır.
- Cezayir idare mahkemelerinin yargı içtihatları, yargısal denetimin devlet arazileri üzerindeki el koymaların önlenmesinde belirleyici bir rol üstlenebileceğini ortaya koymaktadır.
- Yıkım ve tahliye kararlarının uygulanmasındaki idari ve usule ilişkin engeller, kaçak yapılaşmaya karşı mücadelede hukuki araçların pratikteki etkinliğini önemli ölçüde sınırlandırmaktadır.
- Kurumlar arası koordinasyonun güçlendirilmesi, hukuki koruma mekanizmalarının iyileştirilmesi ve yargının etkin uygulamadaki rolünün pekiştirilmesi, devlet arazilerinin korunmasında sürdürülebilir bir çözüm için zorunludur.

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Use of Artificial Intelligence

No artificial intelligence-based tools or applications were used in the preparation of this study. All content of the study was produced by the author(s) in accordance with scientific research methods and academic ethical principles.
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Abstract

This study examines the legal framework for protecting state lands in Algeria against unauthorized construction. The research adopts a legal-analytical approach, examining the relevant legislative and regulatory texts, including laws and decrees regulating state land management, as well as the procedures prescribed for preventing encroachments on public and private state property. Through this analysis, several structural deficiencies within the existing legal framework have been identified. These include ambiguities in the distribution of competencies among the various administrative bodies responsible for managing state lands, the absence of effective coordination mechanisms between them, and the limited effectiveness of legal measures against illegal construction. The study also highlights the challenges facing enforcement authorities in implementing demolition and eviction orders, particularly in the absence of strong judicial oversight. Drawing on judicial precedents issued by Algerian administrative courts, the research demonstrates how courts have addressed cases of encroachment on state lands and the extent to which judicial intervention has contributed to the protection of public property. The findings reveal that despite the existence of a relatively comprehensive legal framework, its practical application remains limited due to administrative and procedural obstacles. The study concludes with a set of recommendations aimed at strengthening legal protection mechanisms for state lands, improving inter-institutional coordination, and enhancing the role of the judiciary in ensuring the effective enforcement of eviction and demolition decisions.

Keywords

State lands, Legal protection, Informal constructions, Demolition, Judicial oversight, Illegal and informal construction

Highlights

- This study argues that the existing legal framework governing unauthorized construction on state lands in Algeria remains inadequate due to gaps in enforcement and a lack of effective inter-institutional coordination.
- Overlapping competencies among administrative bodies responsible for state land management constitute a key structural deficiency that weakens the protection of public property.
- Judicial precedents from Algerian administrative courts demonstrate that judicial oversight can play a decisive role in preventing encroachments on state lands.
- Administrative and procedural obstacles in enforcing demolition and eviction orders significantly limit the practical effectiveness of legal tools against illegal construction.
- Strengthening inter-institutional coordination, improving legal protection mechanisms, and consolidating the role of the judiciary in effective enforcement are essential for sustainable protection of state lands.

Introduction

Protecting state lands is a major concern in many legal systems, because it is closely linked to socio-economic development and the imperatives of achieving environmental sustainability (Manandhar et al., 2017). Indeed, this matter is inextricably linked to state authority and sovereignty, as emphasized by President Abdelmadjid Tebboune during the presentation of the draft law on the protection of state lands by the Prime Minister to the Council of Ministers on April 30, 2023. The President underscored the priority of restoring state authority while ensuring respect for citizens' rights, particularly in light of the proliferation of unlawfully constructed buildings on state lands.

Illegal construction is a widespread problem, particularly in developing countries, particularly in developing nations, where it is commonly referred to as informal settlements or slums. It has witnessed significant growth in major cities due to urbanization and rural-urban migration (Potsiou, 2014). Beyond these factors, the "Black Decade" that Algeria experienced during the 1990s contributed to the exacerbation of informal construction phenomena, as substantial numbers of residents were compelled to migrate from mountainous regions and villages that experienced intensive terrorist activity to major cities. Consequently, they occupied state lands and established informal dwellings on state-owned territories in pursuit of security and stability.

Numerous states have endeavored to develop solutions to eradicate and address this phenomenon. Some have opted to legitimize illegal constructions through the granting of property titles to individuals who erected such dwellings. The adoption of such solutions stems from elevated poverty rates, as exemplified by Brazil (Agunbiade et al., 2015). Others have resorted to implementing alternative policies based on the principle that state property cannot be alienated.

This approach has been adopted by the Algerian legislator, particularly considering that Algeria is among the states that have most actively worked to provide housing for disadvantaged groups, as articulated by the constitutional founder pursuant to Article 63-3 of the Constitution: "The State shall ensure that citizens are enabled to: ... obtain housing, particularly for disadvantaged groups."

Substantial budgetary allocations have been designated for the implementation of public rental housing programs, materializing the strategy of providing public housing for economically disadvantaged and deprived social groups with the objective of resolving the housing crisis and preserving state lands. Correspondingly, legal provisions have been enacted to prohibit and criminalize illegal buildings or structures through Law No. 23/18 dated November 28, 2023, relating to the protection and preservation of state lands. This legislation was enacted to address the predicament of informal constructions that have come to threaten national security and disfigure urban development.

This law comprises five chapters: Chapter One encompasses general provisions; Chapter Two addresses the principles and mechanisms of state land protection; Chapter Three is dedicated to rules applicable to illegal buildings and structures erected on state lands; Chapter Four addresses procedural rules; and finally, Chapter Five contains penal provisions.

From this perspective, the main research problem of this study emerges as follows: Is the current legislative framework sufficient to provide adequate protection for state lands against the phenomenon of unlawful constructions?

Method

This study adopts an analytical legal methodology based on the examination and critical analysis of relevant legislative and regulatory texts governing the prevention and suppression of illegal construction on state lands in Algeria.

The research relies primarily on doctrinal legal analysis, through which the applicable normative framework - including laws, decrees, and administrative regulations - is systematically reviewed and interpreted. In addition, relevant judicial decisions and administrative practices are examined to assess the effectiveness of the existing legal provisions in practice. Where appropriate, a comparative dimension is introduced to contextualize the Algerian legal framework within broader administrative law principles.

This methodological approach enables a rigorous evaluation of both the substantive content of the legal rules and the practical challenges encountered in their implementation.

1. Legal Foundations of State Land Protection: Property Rights and Land Governance Perspectives

The study of the legal protection of State lands requires an examination of the theoretical basis of their legal status and which define the role assigned to the public authority in regulating the use of such lands and ensuring their protection — these foundations are widely discussed in legal scholarship. Property rights theory is one of the main frameworks for examining this issue to have addressed the question of the protection of State lands. Beyond this, recent developments in the administration of State lands have revealed that the effectiveness of legal protection does not rest solely upon the recognition of rights, but is equally contingent upon the competence of the institutions entrusted with the management and oversight of these lands and with the enforcement of the laws and regulations pertaining to them. It is from this standpoint that governance has emerged as an institutional and legal framework aimed at securing the sound administration of State lands, through clearly defined competences, the coordination of the roles of the relevant bodies, and the strengthening of oversight and transparency in decision-making relating thereto.

1.1. The Theory of Property Rights

Property rights theory is of particular importance in the study of the phenomenon of illegal construction on state land, as it proceeds from the premise that the protection of real property is contingent upon the clarity of the legal rights attached to them and the existence of effective mechanisms to ensure their observance. Encroachments upon state land are not solely attributable to violations of land use planning and construction regulations; they may equally arise from deficiencies in the determination of the legal status of certain properties or from the inadequacy of the procedures designed to protect them and to supervise their use and exploitation. It follows, therefore, that ensuring the effective protection of state land requires the consolidation of its legal regulation, the designation of the competent authorities responsible for its administration and preservation, as well as the activation of oversight and monitoring mechanisms and the adoption of the requisite legal measures to address the various forms of encroachment to which it is exposed. Accordingly, Clearer definition of the state's rights over its lands strengthens protection mechanisms and the more effectively underpinned by legal and administrative instruments, the greater the capacity to curb unlawful occupation and construction without legal

title, thereby ensuring the preservation of the State's real property assets and their allocation to the purposes prescribed by law.(Azadi et al.,2023).

1.2. Land Governance

Land governance is defined as the process whereby rights in rem (Real rights attached to the property itself, enforceable erga omnes, as opposed to personal rights) over immovable property are determined, national and private property is classified, the modes of its use and allocation are regulated, and the procedures for its documentation and registration are governed. Recent studies affirm that the effectiveness of land governance depends upon the existence of administrative bodies capable of formulating the rules governing land use, implementing them, and monitoring compliance therewith, while ensuring transparency, accountability, and legality. Good land governance is thus not confined to the enactment of legal rules; rather, it extends equally to their sound implementation and to the capacity of the competent institutions to protect property rights and to prevent unlawful uses of land (Azadi et al., 2023).

The significance of property rights and land governance, as evidenced in the study of the phenomenon of unlawful construction on State property, lies in the fact that this phenomenon is not merely a violation of the rules of physical planning and urban development; rather, it frequently discloses a dysfunction within the land governance system itself. This dysfunction is attributable to a multiplicity of causes, foremost among them the weakness of urban planning, the inadequacy of oversight mechanisms, the ambiguity of the legal status of certain immovable properties, and the weak performance of institutions responsible for protecting public property.

Accordingly, confronting unlawful construction necessitates the strengthening of land governance through enhancing the management of State property, reinforcing transparency and oversight, and ensuring the effective application of the legal rules regulating land use. It is this imperative that prompted the Algerian legislator to enact Law No. 23-18 of 28 November 2023, concerning the protection and preservation of State lands, as a newly introduced legal framework adopted in response to the aggravation of the phenomenon of encroachment upon State lands. This Law has enshrined a set of land governance mechanisms: Article 1 thereof provides for the protection of State lands against appropriation and lays down the rules applicable to buildings and structures erected unlawfully, while Article 8 establishes the principle of prohibiting construction without authorization and the demolition of any building or structure erected in contravention thereof. The Law further prescribes administrative and judicial oversight measures, as well as penal sanctions, to counter the phenomenon of unlawful construction.

2. Manifestations of Encroachment on State Lands under Law No. 23/18

Law No. 23/18 defines manifestations of encroachment on state lands in two forms:

2.1. Construction without Administrative Authorization

This consists of the construction of buildings or structures on state lands without obtaining the requisite permits issued by competent administrative authorities. In other words, state lands are occupied by individuals who proceed to construct buildings thereon without obtaining any permit, thereby resulting in their appropriation (Mercado & Uzin, 1996).

The Algerian legislature addressed this phenomenon through Law No. 23-18. Article 8 thereof expressly prohibits the erection of any building on state lands without prior administrative authorisation. Article 9 establishes a demolition mechanism and prescribes a period not exceeding eight days within which the president of the municipal people's assembly must issue a demolition order.

However, the practical effectiveness of this mechanism faces serious practical obstacles. First, the eight-day deadline appears administratively unrealistic, as a significant number of municipalities lack the human and material resources necessary for prompt enforcement. Second, the application of the licensing prohibition remains contingent upon the efficiency of field inspection bodies a condition that is manifestly deficient in practice. Third, the law contains no early preventive mechanism capable of preventing illegal construction before it begins; its scope is limited to addressing violations after the fact.

A building permit must be obtained before construction begins. The Algerian legislator has endeavored to combat informal construction by prohibiting the erection of any building, regardless of its nature, without prior acquisition of a building permit, pursuant to Article 6 of Law No. 08/15 dated July 20, 2008, which establishes the rules for building compliance and completion of construction projects. It constitutes the act of authority of the local administration based on the application of the measures laid down by law relating to siting, design execution and operation of construction. It aims to secure the safety, sustainability and compliance of buildings with the local regulations (Fauth et al., 2024).

Investigation within the framework of building permits constitutes an essential mechanism for ensuring the safety, legality, and quality of construction projects by serving as a compliance check throughout the construction process (Seiß et al., 2025).

To obtain a building permit, it is required that the permit applicant be either the owner, their agent, a legally authorized tenant, or the entity or department to which the land plot or building is allocated. To establish such qualification, the application must be accompanied by a copy of the property deed, a copy of the possession certificate, a power of attorney, a copy of the administrative contract stipulating the allocation of the land plot or building, or a copy of the articles of incorporation if the owner or their agent is a legal person, as stipulated in Article 42 of Executive Decree No. 15/19 dated January 25, 2015, which determines the modalities for preparing and issuing development contracts.

Through the enumeration of persons legally authorized to request building permits, it is evident that the Algerian legislator has moved toward expanding the scope of beneficiaries due to the widespread proliferation of informal construction, within the framework of the state's strategy to limit this phenomenon and enhance oversight of the urban sector.

Notably the Finance Law of 1998 permitted concession holders designated for investment project implementation—or what has come to be known as economic real estate—to request building permits pursuant to Article 51/4 thereof, which stated: "The concession grant mentioned in the preceding two paragraphs gives the beneficiary the right to obtain a building permit."

However, under Decree 15/19, concession holders are not mentioned among the persons entitled to building permits. Does this mean that concession holders designated for investment project implementation are not entitled to submit applications for building permits? This does not appear to be the case. Economic real estate

concession holders are legally authorized to obtain building permits, as provided in Article 14/5 of Law No. 23/17 dated November 15, 2023, which establishes the conditions and modalities for granting economic real estate belonging to the state's private property designated for investment project implementation, which states: "The concession grants its holder the right to obtain a building permit."

As for other permits, these refer to permits relating to agricultural lands. The law requires obtaining a permit for the construction of any facility or building on agricultural holdings pursuant to Law No. 10/03, which establishes the conditions and modalities for exploiting agricultural lands belonging to the state's private property. This reflects the legislator's intention to protect the agricultural character of lands and prevent any unlawful change of their designation, with the aim of preventing the establishment of informal facilities or constructions thereon, which may reach the level of concession contract rescission due to the conversion of the agricultural designation of lands.

2.2. Illegal Connection to Public Utility Networks

This manifests in the connection of illegally constructed buildings and/or structures unlawfully constructed on state lands to public utility networks, including roads and facilities for water, electricity, gas, and sewerage supply. The increasing expansion of informal and unplanned constructions consequently leads to a parallel rise in cases of illegal connection to these networks.

Although every individual has an inherent right to benefit from essential services, and the state is principally obligated to provide these services to all citizens without discrimination - a right guaranteed by the Constitution reference to Article 27 of the 2020 Algerian Constitution. demonstrates this guarantee: "Public facilities shall ensure equal service and non-discriminatory treatment to all clientele. Public facilities shall be based on the principles of continuity, continuous adjustment, and equitable coverage of the national territory and, when necessary, shall guarantee a minimum level of service. Public facilities shall operate in accordance with the standards of quality, efficiency, oversight, and accountability."

However, this right does not extend to ensuring that occupants of informal constructions have access to these services. Such occupants often lack access to basic services such as water supply, sewerage, waste management, roads, drainage systems, electricity, and public transportation. Residents find themselves living "off the grid," deprived of safe and reliable drinking water, sanitation facilities, and appropriate waste disposal mechanisms (Tutu & Stoler, 2016). Consequently, inhabitants of informal settlements resort to illegal methods (Subbaraman et al., 2012).

Among these practices, illegal connection to public service networks is particularly prominent in Algeria. This practice entails serious risks affecting individual safety on one hand, and threatening the stability of the economic system on the other due to the financial damages resulting therefrom. Illegal connection to electricity and gas networks negatively impacts the quality of their distribution and causes strain on the electrical grid without any compensation for consumed energy. Additionally, illegal water connections may lead to the spread of numerous infectious diseases such as cholera, in addition to fluctuations in water delivery to individuals due to unlawful consumption, as stated by the official of the Water and Sanitation Distribution Company for Algiers (SEEL) (Kharoum, 2022). Furthermore, electricity, gas, or water distribution companies become unable to cover client costs, in addition to frequent service interruptions (Monstadt et al., 2025).

Consequently, the Algerian legislator criminalized the act of illegal connection to public utility networks without first obtaining a building permit or compliance certificates, whether temporary or permanent, and established penalties of financial fines ranging from 50,000 DZD to 100,000 DZD. These penalties apply to contractors who perform connection works or company agents who authorize such connections, pursuant to Article 88 of Law No. 08/15 dated July 20, 2008, which establishes building compliance rules and completion of construction projects.

These networks consist of vehicular and pedestrian roads and their appendages, drinking water supply networks, fire suppression networks, sanitation channels, and electricity, gas, and telecommunications channels and equipment.

In implementation of this law, governors issued instructions directed to Sonelgaz services mandating the prohibition of connecting informal settlements to electricity and gas networks, within the framework of eliminating the spread of such constructions. The instruction included warnings regarding the prosecution and punishment of anyone who violates its provisions, particularly since gas connection operations have practically led to the issuance of residence certificates for violators (Lakal & Chaouch, 2012).

It should be noted that the French Council of State considered the decision to prohibit connections among those decisions falling within administrative policing powers in the field of urban planning (French Council of State, 1993).

The Algerian legislator intensified penalties under Law No. 23/18, incorporating custodial sentences of up to five years in addition to financial fines, while raising the fine amount to between 200,000 DZD and 500,000 DZD. Furthermore, the legislator required that criminal liability of the agent granting authorization be contingent upon the element of knowledge, whereby the agent must be aware at the time of committing the crime—i.e., at the time of granting authorization—that the buildings subject to authorization are unlawfully constructed on state lands, thus making the element of knowledge a fundamental component of the employee's criminal liability.

Consequently, it is evident that the Algerian legislator, through provisions establishing criminal liability of employees in crimes of illegal connection to public utility networks, works to combat corruption in this field, as corruption among utility employees may contribute to the spread of such practices contributes to the proliferation of informal construction phenomena. Therefore, it can be said that activating punishment mechanisms against employees constitutes an optimal strategy for protecting state lands from encroachments. Accordingly, it can be concluded that the law provides a relatively comprehensive framework for protecting state lands, and the intensification of penalties serves to deter such practices within the framework of state land protection.

3. Administrative Interventions to Address the Problem of Illegal Constructions under Law No. 23/18

Both the Governor and the President of the Popular Municipal Assembly, as representatives of decentralized entities, possess extensive powers in the field of state land protection. The legislator, under Law No. 23/18 relating to state land protection, has empowered them with the authority to conduct necessary investigations, including field visits to state lands and requesting investigations at any time. The law also grants them the right

to request administrative and technical documents relating to these lands in order to take necessary measures to protect state lands and prevent encroachment thereon.

Once an encroachment has been identified and recorded, both the Governor and the President of the Popular Municipal Assembly possess the authority to take the following measures:

They may order the demolition of any building constructed without the required legal permits.

Prohibit connection of buildings to roads and public utility networks

Establish local cells to monitor cases of encroachment and illegal construction

From this perspective, both the President of the Popular Municipal Assembly and the Governor possess the authority to issue demolition orders. In reality, this authority has been granted by the legislator to the President of the Popular Municipal Assembly, while the Governor intervenes to issue demolition orders in cases where the President of the Popular Municipal Assembly fails to do so, which is known in administrative law terminology as power of substitution.

The President of the Popular Municipal Assembly must issue a demolition order within no more than 8 days from the date of receiving the crime observation report. If he fails to do so, the Governor shall issue the demolition order within no more than ten days from the date of expiration of the deadline granted to the President of the Popular Municipal Assembly.

However, this law establishes the liability of the Governor and President of the Popular Municipal Assembly in cases of proven collusion, negligence, or refusal to apply applicable laws and regulations. This marks an important development in Algerian legislation, reflecting the legislator's intention to hold local authorities accountable for the proliferation of informal construction phenomena, particularly given the capabilities and means placed at their disposal in this field.

In October 2025, correspondence was directed to Governors, Delegate Governors, and Municipal Presidents by the Minister of Interior, Local Communities, and Transport under number 13115, concerning the fight against informal constructions and violations of urban planning rules within the framework of an intensive campaign launched by the Ministry to eliminate the organized illegal appropriation of public real estate. The correspondence included orders to local communities to:

Strengthen and activate the role of committees, follow-up teams, and qualified agents to investigate violations in the field of planning and urban development

Intensify monitoring operations of construction sites day and night, even during holidays

Tighten surveillance particularly at sensitive locations and areas classified as danger zones or threatened by disasters, especially valley edges and areas subject to easements, to prevent illegal constructions. This stringency regarding such areas is likely due to the incident that occurred in Oran Province in April 2025, involving the collapse of informal housing due to a severe landslide in a high-risk area classified in the red category due to soil fragility. This incident is among the most serious accidents related to informal constructions in Algeria (Geoengineer, 2025)

The necessity of expediting the issuance and implementation of demolition orders immediately upon observing violations, regardless of the completion percentage, and taking deterrent measures against violators, with the aim of limiting the spread of informal constructions while providing all material and human resources to implement demolition orders without delay or postponement

The correspondence also ordered the demolition of all illegal constructions regardless of completion percentage, whether the building is complete, in its initial stages, or merely land leveling operations.





4. The Role of the Judiciary in Protecting State Lands

Judicial authorities play a central role in protecting state lands in Algeria—indeed, arguably the most crucial—in protecting state lands. They are empowered to apply legal provisions and activate mechanisms of prosecution and punishment. These judicial bodies are resorted to by various administrative bodies legally entrusted with protecting state lands, as well as by litigants alike, in pursuit of obtaining binding decisions to disputes concerning encroachments upon state lands.

The mechanisms of judicial intervention and the judiciary's role in protecting state lands are determined according to the nature of the dispute, whether it constitutes a purely administrative matter concerning the review of the legality of administrative decisions related to state land protection, a criminal matter involving investigation and prosecution of violators and the imposition of sanctions upon them, or a civil matter specializing in adjudicating disputes between private legal persons.

4.1. The Administrative Judge

The administrative judge plays a decisive role in protecting state lands, given that the most important decisions in this domain are subject to judicial review, primarily demolition orders, decisions refusing to grant building permits, and even decisions granting such permits—whether through urgent proceedings brought before the court to suspend these decisions or within the framework of actions for their annulment.

Law No. 23/18 relating to the protection and preservation of state lands provides for the possibility of individuals resorting to administrative courts to request suspension of demolition orders. In such cases, it is required that a substantive action be filed, meaning that the plaintiff must register an action for the annulment of the demolition order simultaneously with the urgent application to suspend the execution of the decision. The administrative judge may, in this instance, issue an urgent order suspending the demolition order pending

judgment in the action for annulment of the demolition decision, whenever serious doubt regarding the legality of the decision becomes apparent.

Accordingly, it is evident that the legislature has been careful to establish a balance between the prerogatives of public authority that enable the administration to take all necessary measures to protect state lands, including the demolition of buildings and structures erected illegally, and the rights and legal guarantees of individuals, by enabling them to resort to administrative courts and request suspension of decisions affecting their legal positions pending judicial determination of their legality.

In annulment proceedings, the administrative judge reviews the legality of decisions taken by administrative authorities, and if they are proven to be illegal, the judge possesses the authority to annul them.

It may be said that the administrative judge finds himself facing a difficult equation. On one hand, the judge must deal with an administrative authority enjoying extensive prerogatives as a public authority, representing the state's policy aimed at eliminating informal housing or anarchic constructions. On the other hand, the administrative judge is committed to ensuring protection of the rights of the individual affected by the demolition order—the citizen who has constructed or established unauthorized housing on state lands and who bases his case on special social or humanitarian circumstances. Nevertheless, the administrative judge may conclude by acknowledging the legality of the demolition order when it becomes apparent that the administration has respected the principle of legality and that the decision satisfies its formal and substantive elements and is not tainted by any defect constituting grounds for annulment of the administrative decision.

Furthermore, the judge possesses the authority to issue demolition orders when the competent administrative authority brings an action demanding such relief. Thus, his role is not limited to reviewing related administrative decisions but extends to issuing decisions that put an end to illegal situations existing on state lands, as provided in Article 5, paragraph 2 of Law No. 23/18 relating to the protection of state lands, which states: "State land managers may resort to the competent judge to take all necessary procedures and measures for their protection."

The administrative judge in Algeria has extended his review over the legality of these decisions and, through his judgments, has established general principles in the field of state land protection and the principle of legality. The Council of State ruled in one of its decisions on the legality of a demolition order when it became apparent that construction work was carried out without a permit (Council of State decision dated November 17, 2016, No. 112754).

It also granted the mayor the right to issue demolition orders directly when it became apparent that construction work had been carried out without a permit (Council of State decision dated November 17, 2016, No. 112754).

In another decision, it confirmed the illegality of a building permit granted based on a void sale contract, in the absence of a land use plan and without consulting the planning and development service, and proceeded to annul the building permit (Council of State decision dated October 28, 2010, No. 055959).

In another case, the Council of State annulled a building permit granted by the president of the municipal popular council in exchange for the beneficiary's waiver of executing a judicial decision that had awarded compensation against the municipality. The permit had been granted on land allocated for the construction of a

road junction and green spaces, thus falling within state property. The administrative judge confirmed that granting building permits falls within the powers conferred upon the president of the municipal popular council within the framework of exercising administrative policing functions and within the framework of applicable laws and regulations (Council of State decision dated April 30, 2008, No. 038284).

Administrative jurisprudence in Algeria has also established a general principle that any disposition of state lands in favor of private parties is null and void. Accordingly, the judge did not limit himself to merely annulling the decision but proceeded to declare it null and void due to the extreme gravity of the disposition that seriously affects state lands. The facts of the case are summarized as follows: a private individual benefited from a plot of land by virtue of a benefit decision along with a building permit and a settlement decision from the mayor of Bab El Zouar. However, the governor intervened and issued a decision to demolish the anarchic building constructed on a plot of state land for which a benefit decision and building permit had been granted to another person before him. Faced with these contradictory decisions, the minister intervened and cancelled all benefit decisions and building permits, in addition to halting all construction work and demolishing completed buildings, and issued a decision to evict the occupants. The Administrative Chamber of the Court of Appeals of Algiers annulled this decision, but the Council of State intervened and confirmed that all dispositions made by local communities that are not for the benefit of a public person are considered null and void, and that this nullity is considered a matter of public order and must be raised *ex officio* even if the parties do not invoke it (Council of State decision dated July 1, 2003, No. 006405).

The administrative judge's authority does not stop at suspending the execution of decisions in the urban planning domain or annulling them, but extends to include other powers within the framework of actions for full judicial review, given the comprehensive nature of the administrative judge's powers. In this context, the Algerian Council of State ruled to dissolve an association after proving its involvement in leasing part of a state-owned plot allocated to it for carrying out its associative activity consisting of equestrian sports to a private party under an official contract, who then converted it into a summer camp. The judges of the highest administrative judicial body considered that the association's leasing of a state-owned plot allocated to it within the framework of its associative activity constitutes an illegal act (Council of State decision dated March 28, 2006, No. 030115). This decision represents a clear example of the administrative judge's role in protecting state lands.

A review of selected judicial decisions shows that issued in the field of illegally constructed buildings, it appears that the administrative judge in Algeria does not rely on humanitarian or social considerations that may be invoked by occupants of informal housing, as these are considered insufficient to legitimize situations contrary to law. He strictly adheres to applying urban planning rules and providing necessary protection for state lands from any violation or encroachment, in pursuit of the principle of legality and as a guarantee for state property.

4.2. The Criminal Judge

Criminal courts may intervene when the elements of the offence are established in protecting state lands and prosecute violators while imposing sanctions upon them, the elements of the crime must be complete, comprising the legal element, the material element, and the mental element.

The legal element in crimes committed against state lands is determined pursuant to Articles 17 to 23 of Law No. 23/18 relating to the protection and preservation of state lands, which established a special criminalization framework aimed at ensuring effective protection for this category of public property.

Prior to the enactment of this law, the criminal protection prescribed for state lands suffered from apparent deficiencies based on the principle of legality, which requires that crimes and punishments exist only by virtue of legal text. Despite the inclusion in the Penal Code of certain related crimes, primarily the crime of trespass on real estate property, those provisions remained insufficient and unsuitable for deterring increasing attacks on state property, given their failure to accommodate the specificity of such property or the nature of attacks perpetrated against it.

The material element varies according to the type of crime committed. Regarding the crime of unlawful appropriation of state lands, it requires two elements: first, the condition of appropriation, such as cultivating the land, leasing it, fencing it, or benefiting from it; second, that the trespass occurs on state lands, because if it occurs on private lands, the provisions relating to the misdemeanor of trespass on others' property would apply (Hafed & Derriche, 2025). The penalty for this crime reaches ten years in addition to financial fines, with the obligation for the trespasser to restore the encroached land to its original state at his own expense.

Regarding the crime of constructing buildings or establishing facilities on state lands without legal title, the material element is fulfilled through the perpetrator's establishment of construction on state-owned land, regardless of the intended purpose, whether residential, commercial, industrial, or tourist (Hafed & Derriche, 2025).

The legislature prescribes for this act a custodial penalty ranging between seven (7) and twelve (12) years, aggravated to temporary imprisonment from ten (10) to fifteen (15) years if the trespass is coupled with disposition of state lands. This disposition often takes the form of sale through customary contracts concluded outside the legal framework. Given the gravity of these acts and the serious attack they constitute on state property, the legislature has surrounded them with criminal characterization and emphasized their classification as felonies due to their serious effects on public order and public funds.

Several cases embodying this pattern of attacks have been brought before criminal courts, where perpetrators would subdivide state-owned lands, build housing upon them, and then sell them through customary contracts.

This concerns crimes committed by individuals. In contrast, the Algerian legislature has worked to establish criminal liability for state land managers and officials for damages resulting from attacks on state lands due to their collusion, negligence, or refusal to fulfill obligations prescribed in applicable legislation and regulations.

The legislature has enumerated who constitute state land managers, namely the concerned ministers, governors, presidents of municipal popular councils, and managers of public institutions and bodies.

Accordingly, it becomes clear that the state has adopted a stricter approach to protecting its lands by expanding the scope of accountability to include all those proven to have caused harm, whether through collusion, negligence, or refusal to perform legal duties imposed upon them in applicable legislation and regulations, starting from local authorities up to the highest levels of central authority, namely the concerned minister.

This approach represents a precedent in Algerian legislation, as the legislature has never before extended the scope of criminal accountability with such rigor to include all levels of responsibility, from local managers to ministers.

The severity of this legislative approach is manifested in the aggravation of penalties to the extent that they may reach imprisonment for fifteen (15) years in addition to financial fines, reflecting a clear will to deter any violation of state lands and criminalize any conduct proven to harm them, regardless of the entity or degree of responsibility from which it emanates.

The material element of these crimes, in addition to the capacity as manager or public official, consists of:

Negligence or laxity by the manager or public official regarding trespass on state lands. An example is the failure of the mayor to implement demolition orders. It has occurred that the president of one of the municipalities of Annaba Province (Al-Bouni Municipality) was arrested, criminally prosecuted, and imprisoned due to his laxity and negligence in implementing demolition orders at the level of several anarchic neighborhoods and failure to mobilize public force to execute demolition orders (Dridih, 2025).

Failure to perform or refusal to fulfill obligations imposed on the manager or public official, such as failure to issue a demolition order by the president of the municipal popular council, who must issue a demolition order immediately upon establishing the violation (within 8 days from the date of receiving the crime verification report) regardless of the completion percentage, or by the governor when the mayor fails to do so.

Collusion. An example is the president of one of the municipalities of Algiers issuing benefit decisions in favor of a person and granting him building permits to establish real estate subdivision on lands classified as agricultural lands, which resulted in unlawfully changing the agricultural character of these lands. The mayor was convicted of five years' imprisonment for the crime of abuse of office (K., 2017), noting that Law No. 23/18 had not yet been issued at that date, which led to judicial prosecution being initiated based on one of the corruption crimes. Therefore, granting building permits on agricultural plots and converting land use from agricultural to urban character falls within collusion.

Regarding the mental element, its establishment requires the availability of the elements of knowledge and intent in all crimes committed against state lands.

Consequently, it can be confirmed that the criminal judge plays a central role in deterring violators and eliminating the phenomenon of anarchic buildings by imposing punishment on criminals regardless of their status.

4.3. The Civil Judge

Within the framework of legal protection of state lands in Algeria, the civil judge performs a complementary function alongside the administrative and criminal courts, particularly in disputes concerning the connection of buildings to public utility networks. This role becomes especially apparent when individuals bring proceedings seeking to compel distribution companies responsible for electricity, gas, or water supply to connect their buildings to such networks, notwithstanding that those buildings were erected in breach of the applicable legal and regulatory rules governing urban planning and land use.

In this context, the civil judge's function is not confined to ruling on the connection request as such. It extends to examining the legal status of the property in dispute. Before imposing any obligation on the distribution company, the judge must satisfy himself that the construction was carried out in accordance with the applicable urban planning legislation, and that it does not constitute an encroachment on state lands or a violation of planning and development regulations. This assessment is based on the documents submitted by the parties, principally building permits, conformity certificates, and any other instruments establishing the planning legality of the property.

This judicial approach finds its normative foundation in the explicit provisions of Law No. 23/18. Article 8 thereof expressly prohibits the connection of buildings unlawfully erected on state lands to public utility networks, including roads, water supply, electricity, gas, and sanitation infrastructure. Accordingly, any civil court order compelling such connection would directly contravene the prohibition laid down by the legislature in that Article, and would defeat the very purpose for which the legislature enacted it.

French case law has affirmed this approach in a number of decisions, holding that access to public utility services including connection to electricity networks cannot serve as a means of legitimising urban situations that are contrary to law. One such case concerned a building erected on agricultural land, where the owner sought an order compelling the distribution company to effect a temporary connection to the electricity network, invoking the critical health condition of his spouse and her need for electrically powered medical equipment. The interim relief judge rejected the application, on the ground that granting it would consolidate an unlawful situation and encourage non-compliance with planning rules. The judge further held that the requisite urgency was not established, since the applicant had managed to adapt to the absence of a network connection during the preceding period and could have taken up residence in another property where such services were available. (European Court of Human Rights, 2007).

Accordingly, the civil judge, notwithstanding the limited scope of his jurisdiction in comparison with the administrative and criminal judges, fulfills an important role in the protection of State lands, particularly in matters relating to the connection of unauthorized constructions to public utility networks.

Conclusion

The findings of this research demonstrate that the legal protection afforded to State lands rests, in essence, upon the obligation of the administrators of such lands to activate the various legal mechanisms available to address encroachments thereon. Nevertheless, the legal provisions currently in force remain inadequate to achieve effective protection, owing to a series of factors, foremost among which are the failure to resolve the legal status of lands affected by encroachment and the absence of a modern system for the digitization and updating of real estate data pertaining to State property. These deficiencies constitute factors contributing to the exacerbation of the encroachment phenomenon, particularly in the domain of agricultural holdings and unauthorized construction, where practical obstacles recur and the fragility of monitoring and enforcement mechanisms becomes apparent. Furthermore, there exists a pressing need to develop procedures for the issuance of legal permits through the adoption of digital licensing and the simplifying procedures, in a manner that ensures transparency, reduces opportunities for manipulation, and enhances the effectiveness of preventive measures against encroachment upon State lands.

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