



CRIMINAL LIABILITY FOR CRIMES OF TRESPASSING ON STATE LANDS A STUDY IN LIGHT OF LAW No. 23-18 DATED NOVEMBER 28

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Abstract:

The crime of trespassing on state lands, especially concerning illegal constructions, has become one of the serious issues facing the Algerian state in our current era. This is due to its significant impact on public order, particularly on newly developed elements such as the beauty and aesthetic appeal of cities. Additionally, state lands, being public property, play a crucial role in the stability and sovereignty of the state over its territories and in fulfilling its functions within society, thus achieving the public good while respecting the laws of the republic.

In response, the legislator adopted a deterrent approach to combat this phenomenon by enacting Law No. 23-18 dated November 28, 2023, concerning the protection and preservation of state lands. Through this law, the legislator introduced strict legal mechanisms aimed at preserving and protecting state lands.

This study addresses the criminal liability for crimes of trespassing on state lands, which requires the fulfillment of both objective and personal conditions that affect the perpetrator as a natural person. It also extends to those managing state lands, public officials, and includes anyone who knowingly contributes in any way to the illegal construction on state lands, such as connecting these buildings to road networks or other utility networks like gas, electricity, water, and telephone lines, etc. Furthermore, criminal liability extends to legal entities held accountable under the Penal Code. Thus, the Algerian legislator has comprehensively addressed any potential infringement on state lands, regardless of the perpetrator's status, by intensifying both the crime and the punishment.

Keywords: Public official; Manager; State lands; Criminal liability; Protection.

INTRODUCTION:

The crime of trespassing on state lands is realized by fulfilling its general elements and specific components, whether it is committed in the form of an attempt or a completed crime, by a single person or multiple natural persons (contributors, accomplices, or moral actors), or by those managing state lands or public officials who may have a direct or indirect relationship with these lands, or by legal entities held accountable according to the Penal Code.

However, criminal liability for the crime of trespassing on state lands is not established merely by the legal realization of this crime; rather, the perpetrator must be capable of distinguishing and understanding the act or omission they are committing and must also possess full will—meaning they must act out of choice and not under duress. If a person lacks awareness or is incapable of distinguishing, or if their will is absent, they cannot be held liable. However, if their awareness or ability to distinguish is diminished, their responsibility is reduced but not completely negated.

Criminal liability only applies to the person who committed the crime personally or participated in it, which is known as the principle of personal criminal liability, in line with the Quranic verse: "And no bearer of burdens will bear the burden of another"¹ and "Every soul, for what it has earned, will be retained."² Only in cases explicitly stated by law is this principle of personal liability overridden; this means there are instances where a person's liability may extend to the actions of others, known as objective criminal liability or vicarious criminal liability, which is based on the presumption of fault by the responsible party.



Criminal liability, being a legal responsibility, implies the establishment of a crime against the person who has committed an unlawful act, making them deserving of the punishment prescribed by law. While in the past, criminal liability was primarily concerned with the human being—the "natural person"—the emergence of groups of individuals working together to achieve what an individual alone could not, for their own benefit and for others, led to the recognition of a collective entity distinct from the individuals forming it. This gave rise to the concept of a "legal or juridical person," which has been the subject of various legal theories. Some view it as a fictional personality, others as a reality, and some as a legal technique, ultimately leading to the recognition of the juridical person as a legal entity with its own legal personality³.

In the past, juridical persons played a limited role in social life, but modern economic, social, and technological developments have expanded their presence and the scope of their activities. They now play a crucial role in various fields and possess substantial resources, capabilities, and modern methods for carrying out their activities. As such, while they can bring significant benefits to society and individuals alike, some may also commit acts that cause serious social harm, far greater than the damage caused by a natural person committing a crime, given their resources and capabilities.

This expansion has led to an increase in crimes committed against individuals or property, such as breaches of automated data processing systems, forming criminal associations, and money laundering. The juridical person has thus become a shield behind which natural persons hide to commit acts harmful to the security of the state, both domestically and internationally, through their representatives who act in their name and for their own benefit.

And if punishing natural persons for actions committed during their duties with a legal entity is insufficient to combat such crimes, then legal scholarship needed to reconsider the civil and criminal liability of legal entities.

While legal doctrine and law have recognized the civil liability of legal entities based on tort liability, the idea of holding them criminally liable remained controversial and a subject of debate until recently. Modern legislations, especially those within civil law systems supported by most jurists, continued to reject the concept of criminal liability for legal entities, arguing that the conditions of intent and discernment, which are required for criminal responsibility, are lacking in such entities.

On the other hand, Anglo-Saxon legal systems, which were pioneers in recognizing the criminal liability of legal entities, justified it by arguing that if they could be held civilly liable despite lacking will, logic demanded that they could also be held criminally liable.

This divergence in opinions among scholars influenced both legislation and judicial decisions. Some jurisdictions accepted this liability as a general principle, others adopted it as an exception, while some completely excluded it.

Following this pattern, the Algerian legislator gradually recognized the principle of criminal liability for legal entities. This transition moved from complete rejection to partial acknowledgment and finally to actual codification through amendments to the Penal Code, particularly Law No. 04/15⁴ concerning penalties and Law No. 04/14⁵ concerning procedures. This development followed the French legislative path, which resolved the doctrinal and judicial debate on the criminal liability of legal entities with explicit provisions in Law No. 92-684 of July 16, 1992, after significant discussions and complex negotiations. This law eventually recognized the criminal liability of all legal entities, except the state, responding to practical necessities in economic and social fields, as affirmed by various international conferences held in Bucharest, Rome, Budapest, and Cairo⁶.

In light of these significant developments, it became necessary to embody this liability within legislation and judiciary to adapt the Penal Code to the political, economic, and social transformations occurring in our country. This adaptation is crucial to address the new forms of crime that have emerged as a result.

Hence, the importance of choosing the topic "Criminal Liability for Crimes of Trespassing on State Lands—A Study in Light of Law No. 23-18 dated November 28, 2023," lies in both theoretical and practical aspects. The topic remains precise and continues to pose numerous challenges in its application, mainly due to the difficulty in interpreting and applying legal texts to the concept and nature of criminal liability for natural persons who commit trespassing, as well as the accountability



of managers of public institutions and public officials. This represents the introduction of liability for the acts of subordinates, evolving from a foundation of civil and personal criminal liability to a broader application of criminal liability for legal entities. The Algerian judiciary remains relatively inexperienced in this area, which will inevitably lead to numerous issues in the near future, requiring swift solutions to keep pace with the developments occurring in all fields within our country.

Thus, establishing criminal liability and penalties for crimes of trespassing on state lands, as studied in light of Law No. 23-18 dated November 28, 2023, is a bold step. However, it necessitates further analysis to address some of the ambiguous concepts introduced by the new provisions, clarify the actions that fall under criminalization, and precisely identify the persons responsible and liable for punishment should they commit any of these crimes. This will involve detailing the elements and conditions of criminal liability, as well as accurately identifying the individuals addressed by this law who are criminally responsible for violating its provisions, whether by committing an act or by failing to fulfill the legal obligations imposed upon them.

To answer these questions, we have adopted an analytical, descriptive, and inferential methodology presented in a logical sequence to comprehensively address the principle of establishing criminal liability and the new penalties introduced by Law No. 23-18⁷ dated November 28, 2023. This approach involved examining and commenting on the texts after understanding their content and meaning without expanding on their interpretation, in adherence to the principle of legality, which also restricts the judge's freedom in interpreting and construing these laws.

We began with the first chapter, titled: "Criminal Liability for Committing Crimes of Trespassing on State Lands." In this chapter, we discussed the criminal liability of natural persons for committing crimes of trespassing on state lands, the criminal liability of oversight agents, managers of state lands, and public officials for such crimes. We then examined the criminal liability of legal entities for crimes of trespassing on state lands.

The second chapter of the study is dedicated to exploring the scope of this recognition, focusing on the persons subject to liability and the crimes under scrutiny, while specifying the conditions that must be met. This includes discussing the newly established penal system to reinforce the criminal liability of the individuals covered by this law. We examined the penalties prescribed for natural persons, managers of state lands, and public officials who have a direct or indirect relationship with state lands, and the scope of its application. Additionally, we addressed the penalties or sanctions that legal entities may face for any crimes outlined in the final chapter of Law No. 23-18.

Chapter One: Criminal Liability for Committing Crimes of Trespassing on State Lands

As a general principle, the Algerian legislator typically directs penal laws toward individuals in general, which is evident through the use of terms such as "any person" or "whoever." This will be explained in **Section One**. However, the Law on the Protection of State Lands addresses other individuals specifically based on their roles, rather than as individuals. This distinction is crucial in the application of criminal law as it may specify or limit its application (**Section Two**). Furthermore, the Algerian legislator seeks to treat natural persons and legal entities equally by recognizing the criminal liability of the latter and gradually expanding its application. This approach aligns with global and local developments in various political, economic, and social aspects, considering the increasing and expanding activities of legal entities and their potential to commit more severe crimes than natural persons. Therefore, the Algerian legislator, through amendments to the Penal Code, the Code of Criminal Procedure, and the Law on the Protection and Preservation of Lands, established criminal liability for legal entities for all crimes of trespassing on state lands and the conditions required for such liability. This will be explained in **Section Three**.

Section One: Criminal Liability of Natural Persons for Committing Crimes of Trespassing on State Lands

Once the elements and components of the crime of trespassing on state lands are fulfilled in accordance with Law No. 23-18,⁸ the public prosecution is immediately initiated by the Public Prosecutor. In this regard, it is observed that the Algerian legislator dedicated Chapter Five of Law No. 23-18 dated November 28, 2023, concerning the protection and preservation of state lands, to



the penal provisions applicable to those who commit crimes targeting state lands. All of these are codified in Articles 17 to 29 of this law.

The first paragraph of Article 17 of Law No. 23-18 addresses the misdemeanor of unlawfully seizing state land and using it for personal purposes or for the benefit of others. The second paragraph of the same article addresses the misdemeanor of constructing buildings or structures on state land that has been unlawfully seized. The third paragraph of the same article deals with the felony of disposing of state land, which includes transferring ownership or possession to others through sale, donation, exchange, lease, or loan, either in writing or verbally, with or without compensation.

Meanwhile, Article 18 of Law No. 23-18 addresses the misdemeanor of knowingly connecting illegally constructed buildings or structures on state land to public roads and utility networks.

Article 19 of the same law addresses the misdemeanor of intentionally altering the nature of state land or changing its intended use.

Article 20 addresses the misdemeanor of intentionally regularizing the status of buildings or structures that have been illegally constructed.

Article 21 of Law No. 23-18 addresses three crimes that establish criminal liability for state land managers and public officials:

- The misdemeanor of neglect or leniency in preventing the encroachment on state land by others.
- The felony of failing to fulfill or abstaining from fulfilling the obligations imposed on public officials or state land managers.
- The felony of collusion.

Therefore, the Algerian legislator has introduced nine types of crimes, five of which are attributed to state land managers or public officials⁹, and four are committed by individuals who unlawfully seize property, whether through construction, altering the land's nature, or unlawful seizure and exploitation. Previously, there was only one crime related to the misdemeanor of encroachment on real estate property under Article 386 of the Penal Code¹⁰.

It is notable that the Algerian legislator has imposed severe penalties under this law. The minimum sentence for these crimes starts at two years of imprisonment, and the penalties can be as severe as 15 years of imprisonment for certain offenses, in addition to financial fines. The punishment varies depending on the severity of the offense or the status of the perpetrator. The law also mandates that the offender must restore the illegally occupied land to its original state at their own expense, which is a new type of punishment introduced by the Algerian legislator in this law, previously handled by administrative courts. Additionally, all tools, equipment, and proceeds used or obtained from the crime are to be confiscated, with due consideration given to the rights of third parties acting in good faith, in accordance with Article 24 of this law.

Committing the crime of encroaching on state land can lead to criminal liability, which is the legal consequence of such actions. Any person who engages in criminal behavior according to Law No. 23-18, dated November 28, 2023, concerning the protection and preservation of state land, will be held accountable for their actions and subject to the prescribed penalties as per the legal text, with a judicial ruling issued by the competent authorities.

Second Point: Criminal Liability of State Land Managers and Public Officials for Crimes of Encroachment

The criminal liability of state land managers and public officials is reflected in their relationship with the state, particularly when they commit criminal acts in violation of Law No. 23-18, dated November 28, 2023, concerning the protection and preservation of state land. Their criminal liability is thus tied to the crime itself; it is not part of the crime but a consequence of it, particularly when the crime has caused harm to state land.

Therefore, if a state land manager or public official violates the law by committing related criminal acts, they will be held accountable for their actions and subject to the penalties stipulated by this law, with the penalty imposed by a judge on behalf of society. The perpetrator, by stepping outside the bounds of their right to use their freedom, has placed themselves in opposition to society, thereby allowing the state to respond with criminal punishment as the representative of society.



The Algerian legislator has referred to the criminal liability of state land managers and public officials in Article 21, which is divided into three paragraphs. These paragraphs address the misdemeanor of negligence or leniency by state land managers or public officials in preventing encroachment on state land by others, with the original penalty ranging from three to five years of imprisonment and a fine of 3 million to 5 million centimes.

The second paragraph of Article 21 addresses the felony of failing to fulfill or abstaining from fulfilling the obligations imposed on state land managers or public officials under the legislation to protect the land, which has resulted in harm due to encroachment by others. The original penalty is temporary imprisonment ranging from 7 to 12 years, with a fine ranging from 7 million to 120 million centimes.

The third and final paragraph of Article 21 addresses the crime of collusion by state land managers or public officials. The original penalty for this crime is imprisonment for 10 to 15 years.

Based on the above, who are the state land managers? What is the definition of a public official? Is it according to the broad concept of the Anti-Corruption Law, or the Public Service Law? Or does it refer to the control agents affiliated with the managers of public institutions and bodies?

Referring to Article 3 of Law No. 23-18 concerning the protection and preservation of state land, the persons entrusted with managing state land are specified. This includes land belonging to the public and private national properties of the state, as well as public and private properties of local communities.

According to Article 3, state land managers include:

- Relevant ministers, such as the Minister of Interior, the Minister of Housing, Urban Planning, and the City, the Minister of Tourism and Handicrafts, the Minister of Culture and Arts, the Minister of Agriculture and Rural Development, the Minister of Finance, the Minister of Environment and Renewable Energies, and the Minister of Water Resources.
- Governors (Walis).
- Presidents of the municipal people's assemblies.
- Managers of public institutions¹¹ and bodies, which refer to public industrial and commercial institutions like the National Office of Agricultural Land, the Algerian Water Company¹³, and the Commercial Agency of Algeria Telecom, among others. It also includes central state administrations such as general directorates¹⁴ (e.g., General Directorate of National Security, General Directorate of Forests, General Directorate of State Property) and decentralized state services such as the Directorate¹⁵ of Agricultural Services, Directorate of Environment, Directorate of Tourism, Directorate of Culture, Forest Conservation, Directorate of Urban Planning and Construction, Directorate of Tourism and Handicrafts, Directorate of Housing and Public Facilities, State Property Inspection, Land Survey, and Property Registration¹⁶.

The monitoring agents specified in Article 11 of Law No. 23-18 are as follows:

Judicial Police¹⁷ Officers and Agents¹⁸: These individuals are public officials who have been granted judicial police powers by law. They are responsible for investigating, detecting crimes, and drafting reports, including those related to Law No. 23-18 concerning the protection and preservation of state land.

Urban Planning Police: The Urban Planning and Environmental Protection Police were established by Decree No. 5078, dated May 9, 1983, in Algiers and later expanded to other provinces across Algeria. However, their activities were suspended in 1991 due to the rise of terrorism during the "Black Decade." The need to reactivate these units arose in Greater Algiers starting on March 8, 1997.

In October 1999, following instructions from the Minister of Interior, Local Communities, and the Environment, the General Directorate of National Security reactivated these units in major cities like Oran, Annaba, and Constantine. On August 14, 2000, the Urban Planning Police units were established and expanded across all provinces and districts in Algeria. Furthermore, during a Council of Ministers meeting on December 11, 2022, President Abdelmadjid Tebboune issued instructions to amend the Urban Planning and Construction Law and to broaden the scope of the Urban Planning Police, ensuring their presence in all municipalities nationwide.



Judicial Police Officers and Agents Affiliated with the Forestry Administration: The Algerian legislator has regulated their work in the fourth section of the Code of Criminal Procedure, referring to them as "officials and agents entrusted with certain judicial police duties," from Articles 21 to 27 of the Code of Criminal Procedure.

The Forestry and Forest Resources Law, in its fifth chapter, specifically the first chapter titled "Forestry Police," grants them the status of judicial police officers under Article 125 of Law No. 23-21, dated December 23, 2023¹⁹. It outlines the conditions for holding the status of forestry police officers and distinguishes them from forestry judicial police agents.

State Property Inspectors: The State Property Inspectorate is the administrative foundation of national property services, distributed across the entire national territory at the municipal level. This proximity to citizens makes them highly effective in managing public services, guiding managers, and advising them. These inspectors are responsible for addressing encroachments on state property within their regional jurisdiction.

Agriculture Administration Agents: Article 14 of the Agricultural Orientation Law prohibits any non-agricultural²⁰ use of land classified as agricultural or designated for agricultural purposes. In this context, Law No. 23-18 grants Agriculture Administration agents the authority to monitor cases of encroachment on agricultural lands belonging to state property, as well as cases of seizure or conversion for non-agricultural purposes through illegal construction. They are also authorized to draft reports on these cases in accordance with the provisions of this law.

Environmental Inspectors: These inspectors are governed by Law No. 03-10, dated July 19, 2003, concerning environmental protection within the framework of sustainable development²¹. According to the provisions of this law, the responsibility for identifying violations is assigned to qualified agents within their respective fields. Among these agents are environmental inspectors, as explicitly stated in Article 111: "In addition to judicial police officers and agents working under the Criminal Procedure Code, environmental inspectors are authorized to investigate and identify violations of this law."

Tourism Inspectors: The Algerian legislator has empowered tourism inspectors with the task of identifying crimes that harm natural tourist sites. This is specifically provided for under Law No. 03-02, dated February 17 2003, concerning the general rules for the use and exploitation of tourist beaches²². The legislator has designated tourism inspectors as the body responsible for investigating, identifying, and documenting violations of tourism-related environmental laws. Due to their scientific and technical expertise, these inspectors have the authority to document crimes, and their reports are considered valid evidence until proven otherwise, as stipulated in Article 12 of Law No. 23-18. This aligns with the provisions of Law No. 03-10 on environmental protection, which states in Article 112 that "all violations of this law and the regulations enacted under it shall be documented by reports with evidentiary value."

Cultural Heritage Protection Inspectors and Agents: Law No. 98-04, dated June 15, 1998, concerning the protection of cultural heritage²³, was enacted to safeguard cultural properties, including both immovable and movable assets on state-owned land, as well as those owned by private individuals or entities under private law, and those located in the subsoil of national inland and territorial waters. Cultural heritage inspectors are tasked with implementing all procedures related to the protection and promotion of cultural properties. They have the authority to document all crimes that harm cultural heritage.

Water Police Agents: To protect public water resources and ensure their rational use and management, Law No. 05/12, dated August 5, 2005, concerning water, establishes the Water Police. Article 159 of this law states²⁴: "The Water Police is composed of agents under the authority of the water resources administration." Law No. 23-18 further confirms that these agents are responsible for identifying crimes against state-owned water resources, as defined by the Water Law. These agents are also authorized to request necessary documents to aid in their duties and may even request the use of public force in cases of non-compliance by offenders.

These inspectors and agents are criminally liable under Article 21, paragraph two, of Law No. 23-18, for intentionally failing to fulfill or refraining from fulfilling their obligations under applicable regulations and legislation to protect state land from encroachment. Therefore, monitoring agents,



whether they are officials or workers, are subject to criminal provisions, indicating that the Algerian legislator has adopted a broad definition of the term "public official."

Third Section: Criminal Liability of Legal Entities for Crimes Against State Land

The commission of crimes against state land is not limited to natural persons or even state land managers and certain employees who participated in the regularization of illegally constructed buildings or assisted in connecting them to roads or utility networks, such as Sonelgaz, water companies, sewage systems, internet, and telephone services. This also extends to legal entities, which are legal fictions similar to natural persons. This similarity is evident in determining the legal status of a legal entity. The concept of a legal entity is based on it being an abstract, non-physical entity, unlike a natural person, who is a tangible human being. This raises the question of how to apply punishment to a legal entity according to the Law on the Protection and Preservation of State Land, as outlined in the Penal Code.

In this context, the Algerian legislator has explicitly recognized the criminal liability of legal entities for committing crimes against state land. Article 26 of Law No. 23-18, dated November 28, 2023, concerning the protection and preservation of state land, states: "A legal entity shall be criminally liable for the crimes specified in this law and shall be punished with the penalties provided for in the Penal Code."

Legal entities are defined as groups of persons or assets that aim to achieve a specific purpose, and the law grants them legal personality to the extent necessary to achieve that purpose.

The provisions on criminal liability are included in the first chapter of the Penal Code, which covers Articles 18 bis²⁶, 18 bis 01²⁷, and 18 bis 02²⁸, as well as Article 51 bis in the second chapter of the Penal Code, as amended by Law No. 04-15, dated November 10, 2004, and further amended by Law No. 24-06, which states: "Except for the state, local communities, 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 persons holding delegated authority, when provided for by law. The criminal liability of a legal entity does not preclude the prosecution of a natural person as a principal or accomplice in the same acts."²⁹

According to the above article, the Algerian legislator excludes from criminal liability the state, i.e., the central administration represented by the Presidency of the Republic, the Presidency of the Government, ministries, and their external services, such as provincial directorates, as well as local communities, i.e., municipalities and provinces, and legal entities governed by public law on the grounds that they serve the public interest. Examples include public institutions of an administrative nature, such as hospitals; public institutions of a scientific and technological nature, such as the Nuclear Research Center and the Renewable Energy Center; and public institutions of a scientific, cultural, and professional nature, such as universities, university centers, and higher education schools and institutes.

As for public economic enterprises, such as Sonatrach, banks, Algerian Water, and Postal and Telecommunication Services, they are subject to administrative law in their relations with the state and to private law in their relations with others. Public economic enterprises are organized under Law No. 01-04,³⁰ which concerns the organization, management, and privatization of public economic enterprises and are subject to public law as entities thereof, according to Article 2 of Law No. 01-04. These enterprises are also subject to commercial law in terms of their organization, activities, and operation as commercial companies, as stipulated in Article 5 of Law No. 01-04. Consequently, public economic enterprises are subject to criminal liability under Article 51 bis of the Penal Code if a crime is committed in the course of their business activities as merchants, such as the Electricity and Gas Distribution Company, in accordance with Article 165 of Law No. 02-01³¹.

Article 51 bis of the Penal Code requires the following conditions for establishing the criminal liability of a legal entity:

- The crime must be committed by one of the legal entity's organs, legal representatives, or persons holding delegated authority. This means the crime must be committed by:
 - An organ



- The legal representative of the legal entity: The Algerian legislator defines the legal representative of a legal entity in Article 65 bis 2, paragraph 2 of the Code of Criminal Procedure as "the natural person who is authorized by law or by the statute of the legal entity to represent it"³²

A person holding delegated authority

- The crime must be committed on behalf of the legal entity.
- The law must specifically provide for this liability.

Therefore, the scope of application of criminal liability is limited to legal entities governed by private law, whether they aim to make a profit or achieve a non-profit objective, such as civil and commercial companies, associations, unions, and political parties, among others. This applies to the crimes specified in the Penal Code and certain special laws, as well as those set forth in Law No. 23-18 concerning the protection and preservation of state land, in accordance with Article 26 thereof. The Algerian legislator has thus adopted the principle of specificity, meaning that it has specified the types of crimes for which a legal entity may be held liable, which include all crimes provided for in Articles 17 to 23 of this law.

Second Section: Penalties Applicable to Perpetrators of Crimes Against State Land

The penalties for crimes against state land vary depending on the type of crime committed, the surrounding circumstances, and the person who committed it, whether they are a natural or legal person, an employee, or a manager of those lands, or even an authorized monitoring agent³³.

First Section: Penalties Applied to Natural Persons

First Branch: Principal Penalties :A careful reading of Law No. 23-18, dated November 28, 2023, concerning the protection and preservation of state land, reveals that the Algerian legislator has classified all crimes committed by natural persons as aggravated misdemeanors. Referring to the Penal Code, the principal penalties for misdemeanors are temporary imprisonment and financial fines.

A principal penalty is one that can be imposed without being coupled with any other penalty, as outlined in Article 14, paragraph 1 of the Penal Code. Article 5 of the same law further states that the principal penalties for misdemeanors range from imprisonment for more than two months to five years, except in cases where the law specifies other limits for the penalty and the fine, as seen in Law No. 23-18, where the fine exceeds 20,000 DZD.

Upon examining the provisions of Law No. 23-18, all crimes for which the perpetrator is prosecuted are classified as aggravated misdemeanors with a minimum sentence exceeding five years. In some cases, the legislator has set even higher minimums, starting from seven years, ten years, or even twelve years.

Second Section: Penalties Applied to State Land Managers and Public Officials

The Algerian legislator, through the Law on the Protection and Preservation of State Land, has specifically addressed state land managers and public officials, as well as those who knowingly permit or authorize the connection of illegally constructed buildings on state land to roads, gas, water, sewage, and electricity networks. The law also targets public officials who alter the nature or intended use of state land or regularize its status. In this context, the legislator has imposed strict penalties on state land managers and public officials, ranging from aggravated misdemeanors to felonies.

Articles 18, 19, 20, and 21, paragraph 1 of Law No. 23-18 refer to aggravated misdemeanors, with maximum penalties of up to ten years in prison and fines up to 1 million DZD. As for felonies, they are addressed in Article 21, paragraphs 2 and 3, which specify the felony of failing or refusing to fulfill obligations imposed on state land managers by applicable laws to protect state land, as well as the felony of collusion causing severe damage to state land. These felonies carry penalties of up to 15 years in prison and fines of up to 1.5 million DZD.

Principal Penalties:

- **Imprisonment or Incarceration as a Principal Penalty:** Imprisonment is a common principal penalty applied to natural persons convicted of aggravated misdemeanors and felonies.



- **Financial Fines as a Principal Penalty:** This involves requiring the convicted individual to pay a sum of money to the state treasury. It is a significant penalty for natural persons convicted of felonies (if sentenced to temporary imprisonment) or misdemeanors, as well as minor offenses. This principle is generally established in Article 5, as amended by Law No. 21-14³⁴ for misdemeanors and minor offenses, and in Article 5 bis, as amended by Law No. 06-23 for felonies, if the sentence is temporary imprisonment. However, by examining the provisions of Law No. 23-18, we find that the Algerian legislator has specifically determined the fines that can be imposed on a convicted natural person.

- A natural person convicted of the misdemeanor of unlawfully seizing state land is subject to a fine ranging from 500,000 DZD to 1 million DZD.

- A natural person convicted of the misdemeanor of constructing a building or structure on state land is subject to a fine ranging from 700,000 DZD to 1.2 million DZD.

- A natural person convicted of the felony of disposing of state land is subject to a fine ranging from 1 million DZD to 1.5 million DZD.

- A natural person convicted of the misdemeanor of deliberately altering the nature of the land is subject to a fine ranging from 300,000 DZD to 700,000 DZD.

Complementary Penalties:

The Algerian legislator has outlined complementary penalties in the third chapter of the first book of the Penal Code. According to Article 9 bis of the Penal Code, these include:

- **Legal Guardianship:** When the offender is sentenced to a criminal penalty under the Law on the Protection of State Land, the court must order legal guardianship, which deprives the convicted person of exercising their financial rights during the execution of the principal penalty.

- **Deprivation of National, Civil, and Family Rights:** Article 9 bis 1 of the Penal Code refers to deprivation from exercising national, civil, and family rights, which can include dismissal or exclusion from all public positions and offices related to the crime, deprivation of the right to vote or run for office, or to hold any honorary titles. It also includes disqualification from serving as a sworn assistant, expert, or witness to any contract, or as a witness in court except for informational purposes, the right to bear arms, and the right to teach or work in educational institutions as a teacher, supervisor, or administrator. Additionally, it may result in the loss of all or some parental rights. These penalties apply when the convict is sentenced for a felony related to encroachment on state land, with a maximum duration of ten years, effective from the day the principal sentence is completed and the convict is released.

Article 9, as amended by Law No. 06-23 and Law No. 24-06³⁶, also specifies the following complementary penalties:

- Legal guardianship
- Deprivation of national, civil, and family rights
- Residency restrictions
- Prohibition from residence in certain areas
- Partial confiscation of assets
- Closure of the establishment
- Temporary prohibition from practicing a profession or activity
- Exclusion from public contracts
- Prohibition from issuing checks and/or using payment cards
- Suspension or revocation of a driver's license or a ban on obtaining a new one
- Revocation of a passport
- Publication or posting of the judgment or conviction
- Prohibition from contacting the victim

Additionally, an attempt to commit the misdemeanors mentioned in this law is punishable by the same penalties as the completed crime (Article 27)³⁷.

The accomplice³⁸ and **instigator**³⁹ are also subject to the same penalties as the principal perpetrator (Article 28)⁴⁰. The penalties prescribed in this law are doubled in the case of recidivism (Article 29)⁴¹.



Third Section: Penalties Applied to Legal Entities

We use the term "penalties" in this section to encompass both punishment and measures, particularly in light of the objections that the concept of criminal liability for legal entities has faced. One of the primary objections was that certain penalties, particularly those involving deprivation of liberty, could not be applied to legal entities.

Given that legal entities cannot be subjected to imprisonment, penalties and measures must be tailored accordingly. Therefore, the penalties for legal entities, as outlined in Law No. 23-18, focus on financial penalties, the closure of establishments, restrictions on activities, and other measures appropriate for non-natural persons.

First Branch: Penalties Applied to Legal Entities

The widespread phenomenon of random and unplanned construction has had a significant impact on the aesthetic appeal of cities, a key element of public order. Additionally, the growing population and the country's social and economic development have led to an increase in legal entities due to investment encouragement and the promotion of start-ups. As a result, there has been a diversification of activities, supported by the human and material resources available to legal entities. While these entities provide numerous benefits to society, they may also engage in crimes such as encroachment on state land, which can cause serious damage. To address this, the Algerian legislator has introduced stringent penalties through a new law dedicated to the protection and preservation of state land, making legal entities criminally accountable for such offenses.

The introduction of new penalties for legal entities under the revised Penal Code (Law No. 06-23, dated December 20, 2006) addresses both felonies and misdemeanors as a general rule. The legislator did not distinguish between principal and complementary penalties in Article 9, thus integrating some aspects of these penalties as principal penalties. This approach reflects the inherent nature of legal entities, which differs from natural persons, and raises questions about the application of Article 18 bis 1, especially regarding the specific offenses for which legal entities can be held liable. The principle of "no crime, no punishment without law" means that while the law provides for penalties, they cannot be applied in the absence of a corresponding crime, unlike in cases involving felonies and misdemeanors. This issue arose from the hasty establishment of legal entity criminal liability without fully reconsidering the Penal Code, particularly in the area of minor offenses.

The penalties applicable to legal entities, by analogy with those for natural persons, can be divided into categories based on the criteria provided in Articles 18 bis and 18 bis 1 of the Penal Code. These penalties are adapted according to the nature of the rights affected, following the approach taken by some French legal scholars.

1. Principal Penalty for Legal Entities:

a. Fines as a Principal Penalty: A fine involves the convicted entity paying a sum of money to the state treasury. It is one of the most important penalties imposed on legal entities for felonies, misdemeanors, and minor offenses. As a general rule, Article 18 bis of the Penal Code ⁴²applies to felonies and misdemeanors, and Article 18 bis 1 applies in cases of minor offenses. The fine is set at "an amount equal to one to five times the maximum fine prescribed for a natural person for the same offense," as stipulated in Article 131/38 of the French Penal Code.

The Algerian legislator has set specific fine amounts for legal entities, based on those applicable to natural persons, and the fines can be up to five times the maximum fine for a natural person. The following fines apply to legal entities:

1. **Illegal Seizure of State Land:** A legal entity convicted of the misdemeanor of unlawfully seizing state land faces a fine ranging from 1,000,000 DZD (the maximum fine for a natural person) to 5,000,000 DZD (five times the maximum fine).
2. **Constructing on State Land:** A legal entity convicted of the misdemeanor of constructing a building or structure on state land faces a fine ranging from 1,200,000 DZD (the maximum fine for a natural person) to 6,000,000 DZD (five times the maximum fine).
3. **Altering the Nature of State Land:** A legal entity convicted of the misdemeanor of altering the nature or intended use of state land faces a fine ranging from 700,000 DZD (the maximum fine for a natural person) to 3,500,000 DZD (five times the maximum fine).



4. **Disposal of State Land:** A legal entity convicted of the felony of disposing of state land faces a fine ranging from 1,500,000 DZD (the maximum fine for a natural person) to 7,500,000 DZD (five times the maximum fine).

The legislator recognized that fines are typically imposed on natural persons in conjunction with another penalty, such as imprisonment. Since imprisonment cannot be applied to legal entities, the legislator deemed it necessary to multiply the fine amounts imposed on legal entities to ensure proportionality and justice in the penalties.

Second: Complementary Penalties for Legal Entities

1. Dissolution of the Legal Entity: Dissolution involves the legal termination of a legal entity's ability to continue its activities. This means that the entity cannot resume its operations under a different name, with different directors, board members, or managers⁴³. Upon dissolution, the entity's assets are liquidated, while ensuring the protection of the rights of third parties acting in good faith. This penalty is among the most severe that can be imposed on a legal entity, and the Algerian legislator has made it an optional measure under Article 18 bis of the Penal Code, which outlines the general penalties applicable to legal entities.

2. Closure of the Establishment or a Branch for Up to 5 Years: This penalty entails prohibiting the legal entity from continuing the activity it engaged in prior to the closure order. This measure corresponds to the fourth paragraph of Article 131/39 of the French Penal Code. Unlike the French legislator, who considers this a principal penalty for many felonies and misdemeanors, the Algerian legislator includes it within the general penalties for legal entities but has limited its application to crimes like forming criminal associations, excluding other crimes, including minor offenses. The court may impose this penalty in addition to a fine, for a temporary period not exceeding five years, as specified in the conviction.

3. Exclusion from Public Contracts for Up to 5 Years: This measure involves banning the legal entity from participating in any transaction involving a public entity, as per Article 131/34 of the French Penal Code. The exclusion applies whether the contract involves real estate or movable property, and whether it relates to providing services or goods. The legal entity is prohibited from participating in contracts involving a public entity, either directly or indirectly, meaning it cannot subcontract with another legal entity that has directly contracted with a public entity. This penalty is generally applicable under Article 18 bis of the Penal Code for felonies and misdemeanors, but not for minor offenses, and it is mandatory, with the duration fixed at five years, limiting the judge's discretion.

4. Prohibition from Engaging in Professional or Social Activities: Article 18 bis of the Penal Code, corresponding to the second paragraph of Article 131/39 of the French Penal Code, outlines the prohibition from engaging in professional or social activities for felonies and misdemeanors. However, in Algerian law, this penalty is only applied to crimes like forming criminal associations and money laundering, excluding other crimes.

5. Confiscation of Items Used in or Resulting from the Crime: As defined in Article 15 of the Penal Code, confiscation refers to the permanent transfer of specific assets to the state. This penalty is outlined as a principal penalty in Articles 18 bis and 18 bis 1 for felonies, misdemeanors, and minor offenses. According to Article 24 of Law No. 23-18, dated November 30, 2023⁴⁴, confiscation is mandatory alongside imprisonment and fines⁴⁵.

It can apply to equipment, software, tools, or machines used in committing the crime, or to illicitly obtained assets related to crimes involving the protection and preservation of state land. However, confiscation does not extend to assets owned by third parties acting in good faith. Additionally, buildings or structures unlawfully constructed on state land may be confiscated, provided they meet legal and regulatory standards, as an alternative to demolition.

6. Publication and Posting of the Conviction: This penalty involves publishing the entire conviction or an excerpt in one or more newspapers designated by the court, or posting it in specific locations for a period not exceeding one month⁴⁶.

The cost of publication or posting is borne by the convicted entity, within the limits set by the court. The Algerian legislator does not differentiate between felonies and misdemeanors in Article 18 bis, allowing for this penalty in all crimes, provided it is explicitly authorized by law. The criminal court



may impose this penalty in enforcing Law No. 23-18, as Article 26 of this law refers to the application of penalties under the Penal Code⁴⁷.

It is also worth noting that Law No. 23-18 introduces a new type of penalty—restoring the situation to its original state at the expense of the offender, whether a natural or legal person.

7. Judicial Supervision for Up to 5 Years: Judicial supervision involves placing the legal entity under the oversight of the judiciary, closely resembling the system of judicial monitoring. This measure is specified in Article 18 bis of the Penal Code, applicable to legal entities, including in minor offenses, and is limited to a temporary period not exceeding five years. It targets the activity that led to the crime or was associated with its commission. A criticism of this provision is the lack of detailed procedures for judicial supervision of the legal entity's activities, unlike French law, which, under Article 131/46 of the French Penal Code, requires the appointment of a judicial agent to oversee the activities related to or involving the crime. The agent is required to submit a report every six months to the judge responsible for the sentence, who may modify, lift, or maintain the judicial supervision.

Penalty of Restoring State Land to Its Original Condition at the Offender's Expense⁴⁸:

According to Article 25, paragraph 2 of Law No. 23-18, it states: "The competent judicial authority may order the offender, in all cases, to restore the state land encroached upon to its original condition at their expense, taking into account the provisions of paragraph 2 of Article 24 of this law." From our interpretation of this article, it becomes clear that the penalty of restoring the locations to their original condition at the offender's expense is mandatory for all crimes under this law. This means that this penalty is a compulsory complementary penalty, along with imprisonment or fines, and may also be accompanied by one or more additional penalties listed in the Penal Code. Therefore, whenever a conviction is issued for crimes of encroachment on state land, the court must order the restoration of the state land to its original condition at the offender's expense, considering the possibility of confiscating buildings and structures that meet the required construction, planning, and development standards, which is an exception where restoration is not required if the building is confiscated and complies with the necessary standards.

It should also be noted that this penalty applies to legal entities as well, as explicitly stated in Article 26 of Law No. 23-18, which establishes the principle of the criminal liability of legal entities for crimes of encroachment on state land, provided the necessary conditions outlined in the Penal Code are met, as previously mentioned.

Second Branch: Measures Taken Against Legal Entities

Security measures are the second form of criminal penalties. Criminologists define them as a set of actions ordered by a judge to address the criminal threat inherent in the offender, with the goal of eliminating it.

While the Algerian Penal Code does not explicitly define security measures, it mentions them in Article 1, equating them with crimes and punishments in terms of their adherence to the principle of legality by stating, "There is no crime, punishment, or security measure without law." Additionally, Article 4 mentions that "crimes are punished by applying penalties, and crime prevention is achieved by taking security measures," with the final paragraph noting that security measures are preventive in nature and can be either personal or material.

Thus, the legislator has divided security measures into personal and material measures, with the latter being particularly relevant to legal entities. This raises the question of their status among the newly introduced penalties following the amendment of the Penal Code.

From the principle of legality, it can be said that the Algerian legislator explicitly excluded the inclusion of security measures in the new penalties for legal entities under the amendments to the Penal Code, focusing solely on principal penalties due to the nature of legal entities themselves.

However, considering that the penalties imposed on legal entities do not aim to atone for the offense or rehabilitate the offender, as is the case with natural persons, but rather to achieve deterrence, it would have been better if the new amendments had included some penalties as security measures, allowing the judge the discretion to apply them. This could have included penalties such as exclusion from public contracts, judicial supervision, or prohibition from engaging in one or more professional or social activities, alongside other principal penalties.

**Conclusion:**

The issuance of Law No. 23-18, concerning the protection and preservation of state land, was part of the implementation of directives from the President of the Republic, Mr. Abd elmadjid Tebboune, the first magistrate of the country, which included the preparation of a special law to protect state land and stop the phenomenon of encroachment and unauthorized use by others. This was reaffirmed by the Minister of Justice, Mr. Abderrachid Tabi, during his presentation of Law No. 23-18 before Parliament, stating that the law proposes a new legal framework to regulate the mechanisms for protecting state land and preserving it, and strengthens the existing legal system in this field. The law aims to define the mechanisms for protecting state land from seizure, the rules applicable to buildings and structures unlawfully constructed on it, and the penalties applicable in cases of encroachment. The nature of these penalties leans more toward punishment than preventive measures. Here are the key findings of the research on criminal liability for crimes against state land:

1. The Algerian legislator has expanded the scope of criminal liability for crimes against state land to include the principal offender, accomplices, instigators, monitoring agents, managers of public institutions and bodies, and public officials as broadly defined by anti-corruption law, as well as establishing the criminal liability of legal entities. This has resulted in absolute and decisive protection for state land by closing all avenues for encroachment.
2. The legislator introduced nine specific crimes of encroachment on state land, whereas previously, only one such crime existed under the Penal Code (Article 386).
3. The concept of encroachment on state land is broader than that of encroachment on real estate.
4. The enactment of the law on encroachment on state land in November 2023 means it is applied with immediate effect. However, there is a noted conflict between Article 121 of the Supplementary Finance Act of 2024, which continues the regularization of buildings under Law No. 15-08, and Article 20 of Law No. 23-18, which criminalizes the act of regularization.
5. The law introduces the mandatory penalty of restoring state land to its original condition at the offender's expense in all cases of encroachment, which must be ordered by the judge in every case.
6. The judge may impose one or more complementary penalties alongside the principal penalties (imprisonment, fines) for crimes against state land.
7. The Public Prosecution automatically initiates criminal proceedings for crimes against state land without any restrictions.
8. The costs of demolition are borne by the offender, and if they do not comply with the demolition order, the municipality will collect the expenses.
9. The scope of monitoring has been expanded, with each entity specializing in its respective field, to provide greater protection for state land, preserve it, and avoid triggering severe criminal liability.

Based on these findings, several recommendations are proposed:

1. Although it is not the role of Algerian legislation to define terms, and in line with the principle of legality, the personalization of punishment, and the strict interpretation of criminal provisions, it would have been better for the legislator to clarify what is meant by "public official" subject to criminal liability, given the differences between elected officials, workers, public servants, and managers. This would ensure precise determination of criminal liability in accordance with the principle of legality and the personalization of punishment.
2. Protecting state land requires more than just tightening criminal liability. It also necessitates the immediate enforcement of demolition orders, strict administrative control, the inventory of state property, and the provision of ownership deeds and cadastral documents to all public institutions and bodies within their respective areas of expertise. This would enable them to bring urgent cases before the administrative courts to halt construction, and to expedite the issuance of more detailed regulations to facilitate the understanding of Law No. 23-18 on the protection and



preservation of state land. It would also clarify the composition, location, and operation of local units responsible for monitoring cases of encroachment and illegal construction on state land.

3. Establishing a special fund for the demolition costs of illegal constructions, funded by criminal proceeds (such as the sale of seized items at public auctions, court-ordered expenses, and a portion of compensation awarded to the civil party, represented by the Judicial Agency of the Public Treasury, the Wali representing the province, or the Mayor representing the municipality).

4. The court should determine the demolition costs, in addition to the penalty of restoring the site to its original condition.

Footnotes list:

¹ Surah Fatir, verse 18.

² Surah Al-Muddathir, verse 38.

³Ramadan Abu Saud, *Explanation of the Introduction to Civil Law, General Theory of Rights*, University Press, Alexandria, Arab Republic of Egypt, undated, 1999, p. 43.

⁴Law No. 04-15 dated November 10, 2004, amending and supplementing the Penal Code, Official Journal of the People's Democratic Republic of Algeria, No. 71, published on November 10, 2004.

⁵Law No. 04-14 dated November 10, 2004, amending and supplementing the Code of Criminal Procedure, Official Journal of the People's Democratic Republic of Algeria, No. 71, published on November 10, 2004.

⁶Futuh Abdullah Al-Shadhili and Abdul Qadir Al-Qahwaji, *Explanation of the Penal Code, General Theory of Crime, Responsibility, and Penalty*, University of Alexandria, Arab Republic of Egypt, 1997, p. 43.

⁷Law No. 23-18 dated November 28, 2023, relating to the Protection of State Lands, Official Journal of the People's Democratic Republic of Algeria, No. 76, published on November 30, 2023.

⁸Article 14 of Law No. 23-18 dated November 28, 2023, concerning the Protection and Preservation of State Lands, states: "The Public Prosecutor's Office shall initiate criminal proceedings automatically for the offenses stipulated in this law."

⁹The Algerian legislator defined the public official in Article 138 bis of Law No. 21-14 dated December 28, 2021, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Journal of the People's Democratic Republic of Algeria, No. 99, published on December 29, 2021, p. 6, as "For the purposes of this article, a public official means any person holding a legislative, administrative, or elected position in one of the local people's councils, whether appointed or elected, permanent or temporary, paid or unpaid, regardless of their rank or seniority." This definition is nearly identical to that provided in the Anti-Corruption Law 06-01.

¹⁰Article 386, as amended by Law No. 82-04 dated February 13, 1982, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Journal of the People's Democratic Republic of Algeria, No. 7, published on February 16, 1982.

¹¹While Article 02, Paragraph 02 of Law No. 06-03, concerning the general civil service statute, defined public institutions and administrations instead of the term administrative bodies, it means that public institutions and administrations include central public institutions and administrations of the state, decentralized departments, regional communities, public institutions of an administrative nature, public institutions of a scientific, cultural, and professional nature, public institutions of a technological nature, and any public institution whose employees may be subject to the provisions of this law. Hence, the Algerian legislator used the term "manager" instead of "employee" to avoid this article from coinciding with the content of Article 03 of Law No. 23-18, related to the protection and preservation of state lands, as the term "manager" is broader than the concept of "employee" according to the civil service law because public institutions of a commercial and economic nature are not included in the civil service law as their bodies or managers are subject to administrative law, labor law, and commercial law.

¹² Law No. 88-01 dated January 12, 1988, concerning the guiding law for public economic institutions, Official Gazette No. 02, dated January 13, 1988, amended and supplemented.



¹³ Established by Law No. 90-25 dated November 18, 1990, defining agricultural orientation, and also by Decree No. 96-87 dated February 24, 1996, establishing the National Office for Agricultural Lands, amended and supplemented by Decree No. 09-339 dated October 22, 2009.

¹⁴ Executive Decree No. 01-101 dated April 21, 2001, establishing Algerian Waters, Official Gazette No. 24, dated April 22, 2001.

¹⁵ Executive Decree No. 21-393, dated October 18, 2021, defining the organization and competencies of the external services of the General Directorate of National Property, Official Gazette No. 80, dated October 20, 2021.

¹⁶ Executive Decree No. 21-394, dated October 18, 2021, defining the tasks and organization of the Inspectorate of State Property, Land Survey, and Real Estate Preservation, Official Gazette No. 80, dated October 20, 2021.

¹⁷ The categories that have the status of judicial police officers, according to Article 15 of the Code of Criminal Procedure, include:

- Presidents of municipal popular councils.
- National Gendarmerie officers.
- Employees of the special bodies of controllers, police commissioners, and national security officers.
- Ranked members of the Gendarmerie and National Gendarmerie personnel who have served for at least three years and have been appointed by joint decision of the Minister of Justice and the Minister of National Defense after the approval of a special committee.etc.

¹⁸ Article 19 of Ordinance No. 95-10 dated February 25, 1995, amending Ordinance No. 66-155 dated June 8, 1966, containing the Code of Criminal Procedure, states that "judicial police agents include police department employees, ranked members of the National Gendarmerie, National Gendarmerie personnel, and military security personnel who do not have the status of judicial police officers."

¹⁹ Law No. 23-21 dated December 23, 2023, concerning forests and forest resources, Official Gazette No. 83, dated December 24, 2023, page 05.

²⁰ Law No. 08-16 dated August 3, 2008, concerning agricultural orientation, Official Gazette No. 46, dated August 10, 2008, page 04.

²¹ Law No. 03-10 dated July 19, 2003, concerning environmental protection within sustainable development, Official Gazette No. 43, dated July 20, 2003, page 06.

²² Law No. 03-02 dated February 17, 2003, concerning the general rules for the use and exploitation of beaches for tourism, Official Gazette No. 11, dated February 19, 2003, page 08.

²³ Law No. 98-04 dated June 15, 1998, concerning the protection of cultural heritage, Official Gazette No. 44, dated 22 Safar 1419 AH, page 03.

²⁴ Law No. 05-12 dated August 4, 2005, concerning water, Official Gazette No. 60, dated September 4, 2005, amended and supplemented, page 03.

²⁵ Ordinance No. 55-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 49, dated June 11, 1966, amended and supplemented.

²⁶ Article 18 bis amended by Law No. 06-23 dated December 20, 2006, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 84, dated December 24, 2006.

²⁷ Article 18 bis 01 of Law No. 04-15 dated November 10, 2004, amending the Penal Code, states: "The penalties imposed on a legal person for offenses are: a fine equal to one (1) to five (5) times the maximum fine prescribed for a natural person in the law punishing the offense. Confiscation of the item used in committing the offense or resulting from it may also be ordered."

²⁸ Article 18 bis 02 of Law No. 06-23 amending the Penal Code states: "When the law does not provide for a fine for natural persons in felonies or misdemeanors, and the legal person is criminally liable according to the provisions of Article 51 bis, the maximum fine calculated for applying the legal percentage of the penalty for the legal person is as follows:

- 2,000,000 DZD when the felony is punishable by death or life imprisonment.
- 1,000,000 DZD when the felony is punishable by temporary imprisonment.
- 500,000 DZD for a misdemeanor."



²⁹ Article 51 bis added by Law No. 04-15 dated November 10, 2004, and amended by Law No. 24-06 dated April 28, 2024, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 30, dated April 30, 2024.

³⁰ Ordinance No. 01-04 dated August 20, 2001, concerning the organization, management, and privatization of public economic institutions, Official Gazette No. 47, dated August 22, 2001, amended and supplemented by Ordinance No. 08-01 dated February 28, 2008, Official Gazette No. 11, dated March 2, 2008.

³¹ Law No. 02-01 dated February 5, 2002, concerning electricity and gas distribution, Official Gazette No. 08, dated February 6, 2002.

³² Article 65 bis 02 added by Law No. 04-14 dated November 10, 2004, amending and supplementing Ordinance No. 66-155 containing the Code of Criminal Procedure, Official Gazette No. 71, dated November 10, 2004.

³³ Article 11 of Law No. 23-18, dated November 28, 2023, related to the protection and preservation of state lands, Official Gazette No. 76, dated November 30, 2023, page 06.

³⁴ Law No. 21-14 dated December 28, 2021, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 99, dated December 29, 2021, page 05.

³⁵ Law No. 06-23 dated December 20, 2006, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 84, dated December 24, 2006, page 11.

³⁶ Law No. 24-06 dated April 28, 2024, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 30, dated April 30, 2024, page 04.

³⁷ Article 27 of Law No. 23-18 related to the protection and preservation of state lands states: "Attempted misdemeanors mentioned in this law are punishable by the same penalties as the complete offense."

³⁸ An accomplice is a person who contributed indirectly to the commission of the crime, meaning they did not participate in its execution. Their role was limited to providing assistance and support to the perpetrator or perpetrators in carrying out their criminal act aimed at achieving a criminal outcome. Article 42 of the Penal Code states: "A person is considered an accomplice in a crime if they did not directly participate but helped in any way or assisted the act or the perpetrators in carrying out preparatory, facilitating, or executing acts with knowledge of this." Article 43 of the Penal Code states: "A person who habitually provides shelter or a meeting place for one or more criminals engaged in robbery or violence against state security, public security, individuals, or property, knowing their criminal behavior, is considered an accomplice." Thus, the role of the accomplice is limited to engaging in activities that assist the perpetrator in committing the crime. This act is not criminalized in itself but gains its criminal nature due to its connection to the criminal act committed by the perpetrator. Since preparatory acts precede the material acts to achieve the crime, the accomplice's act usually precedes or coincides with the perpetrator's act in some cases. Article 44 of the Penal Code states: "An accomplice in a felony or misdemeanor is punished with the same penalty as the perpetrator." This means that the Algerian judge is required to apply the prescribed penalty for the felony or misdemeanor to both the perpetrator and the accomplice and impose the legally prescribed punishment. It also means that the judge equates the perpetrator and the accomplice in terms of criminal liability by deciding on the punishment for the committed crime. See: Dr. Abdullah Suleiman, Explanation of Algerian Law, p. 177.

³⁹ Article 46 of the Penal Code stipulates that the instigator is punished even if the intended crime was not committed, as long as there was intent to commit it. This non-commission does not only refer to the perpetrator's total abstention from committing the crime, but it can also be a refusal to commit a crime that was not incited. For example, if you incite someone to commit theft and they refuse but commit murder instead, the perpetrator is considered to have abstained from committing the incited crime by their own will, and the instigator is liable for the theft, not the murder.



⁴⁰ Article 28 of Law No. 23-18 dated November 28, 2023, related to the protection and preservation of state lands, states: "An accomplice in committing one of the crimes mentioned in this law and the instigator thereof is punished with the same penalties as the perpetrator."

⁴¹ Article 29 of Law No. 23-18 dated November 28, 2023, related to the protection and preservation of state lands, states: "In the case of recidivism, the penalties stipulated in this law are doubled."

⁴² Article 18 bis 1, introduced by Law No. 04-15 dated November 10, 2004, amending and supplementing the Penal Code.

⁴³ Ahsan Bouskeia, "Al-Wajeez in General Criminal Law," Second Edition, 2004, p. 216.

⁴⁴ Article 24 of Law No. 23-18 dated November 28, 2023, related to the protection and preservation of state lands, states: "Without prejudice to the rights of bona fide third parties, the confiscation of devices, programs, means, tools, and equipment used in committing the crime or multiple crimes mentioned in this law and the funds obtained from them shall be ordered."

⁴⁵ Article 15 bis 2 of Law No. 06-23 dated December 20, 2006, amending the Penal Code, clarifies that bona fide third parties are individuals who were not personally subject to prosecution or conviction for the actions that led to the confiscation, and they possess valid and legitimate ownership or possession documents for the confiscable items.

⁴⁶ Article 18, Paragraph 07 of Law No. 06-23 dated December 20, 2006, amending and supplementing the Penal Code, Official Gazette No. 76, dated November 30, 2023.

⁴⁷ Article 26 of Law No. 23-18 dated November 28, 2023, related to the protection and preservation of state lands, states: "A legal entity is criminally responsible for the crimes mentioned in this law and is punished with the penalties stipulated in the Penal Code."

⁴⁸ The Algerian legislator requires the criminal judge to pronounce a mandatory supplementary penalty in addition to the other supplementary penalties provided in the Penal Code, whether for natural or legal persons. This involves restoring places to their original state, except for buildings that are confiscated by the state for use as public facilities. However, this penalty may be impossible to enforce in cases where vegetation cover has been removed and a building has been erected on it, as it would be impractical to restore vegetation that was planted naturally or artificially and could be up to 100 years old.

⁴⁹ Article 1 of Ordinance No. 55-156 dated June 8, 1966, containing the Penal Code, Official Gazette No. 49, dated June 11, 1966, amended and supplemented.

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- b. Surah Al-Muddathir, verse 38.

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- b. Law No. 23-21 dated December 23, 2023, relating to Forestry and Forest Resources, Official Journal of the People's Democratic Republic of Algeria, No. 83, published on December 24, 2023.
- c. Law No. 23-18 dated November 28, 2023, relating to the Protection of State Lands, Official Journal of the People's Democratic Republic of Algeria, No. 76, published on November 30, 2023.
- d. Law No. 21-14 dated December 28, 2021, amending and supplementing Ordinance No. 66-156 dated June 8, 1966, containing the Penal Code, Official Journal of the People's Democratic Republic of Algeria, No. 99, published on December 29, 2021.
- e. Law No. 08-16 dated August 3, 2008, relating to Agricultural Orientation, Official Journal of the People's Democratic Republic of Algeria, No. 46, published on August 10, 2008, p. 4.

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- f. Law No. 06-01 dated February 20, 2006, concerning the Prevention and Fight against Corruption, Official Journal of the People's Democratic Republic of Algeria, No. 14, published on March 8, 2006, amended and supplemented.
 - g. Law No. 06-03 dated July 15, 2006, concerning the General Basic Law for Civil Service, Official Journal of the People's Democratic Republic of Algeria, No. 46, published on July 16, 2006.
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 - m. Law No. 03-02 dated February 17, 2003, relating to General Rules for the Use and Exploitation of Tourist Beaches, Official Journal of the People's Democratic Republic of Algeria, No. 11, published on February 19, 2003.
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 - q. Law No. 90-25 dated November 18, 1990, establishing Agricultural Orientation, Official Journal of the People's Democratic Republic of Algeria, No. 49, published on November 18, 1990.
 - r. Law No. 88-01 dated January 12, 1988, concerning the Directive Law for Public Economic Enterprises, Official Journal of the People's Democratic Republic of Algeria, No. 2, published on January 13, 1988, amended and supplemented.
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[4] B-Orders

- a) Order No.: 08-01 dated February 28, 2008, amending Order No. 01-04, related to the organization, management, and privatization of public economic enterprises. Published in the Official Gazette No. 11, dated March 2, 2008.
- b) Order No.: 01-04 dated August 20, 2001, related to the organization, management, and privatization of public economic enterprises. Published in the Official Gazette No. 62, dated October 24, 2001.
- c) Order No.: 66-155 dated June 8, 1966, containing the Code of Criminal Procedure. Published in the Official Gazette No. 48, dated June 10, 1966, as amended and supplemented.
- d) Order No.: 66-156 dated June 8, 1966, containing the Penal Code. Published in the Official Gazette No. 49, dated June 11, 1966, as amended and supplemented.

[5] Regulatory Texts**A - Decrees**



- a) Decree No.: 96-87 dated February 24, 1996, specifying the establishment of the National Office for Agricultural Lands, as amended and supplemented by Decree No.: 09-339 dated October 22, 2009.

[6] B - Executive Decrees

- a) Executive Decree No.: 21-393 dated October 18, 2021, specifying the organization and powers of the external services of the General Directorate of National Properties. Published in the Official Gazette No. 80, dated October 20, 2021.
- b) Executive Decree No.: 21-394 dated October 18, 2021, specifying the tasks, organization, and operation of the Inspectorate of State Property Services, Land Survey, and Property Conservation. Published in the Official Gazette No. 80, dated October 20, 2021.
- c) Executive Decree No.: 01-101 dated April 21, 2001, establishing Algeria Water. Published in the Official Gazette No. 24, dated April 22, 2001.

[7] References:

Books:

- a) Ramadan Abu Saud, *Explanation of the Introduction to Civil Law, General Theory of Rights*, University Press, Alexandria, Arab Republic of Egypt, undated, 1999.
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- c) Ahsen Bousqi'a, *The Compendium of General Penal Law*, 2nd edition, 2004, p. 216.