Ilkogretim Online - Elementary Education Online, 2024; Vol 23 (Issue 1): pp. 362-372
http://ilkogretim-online.org
doi: 10.17051/ilkonline.2024.01.27

The Legal Protection of Public Assets in Algerian Law

Dr. Ramdani Sebti Laboratory of State and Societal Security; Health and Food Security, Faculty of Law and Political Science, University of Khenchela (Algeria). E-mail: ramdani.sebti@univ-khenchela.dz

Received: 08/11/2023 Accepted: 15/01/2024 Published: 31/03/2024

Abstract

Public assets are funds designated for public benefit, meaning they are intended for direct public use or to serve a public facility. They therefore have a different purpose to private individual assets, resulting in their subjection to a legal system distinct from that governing private assets in civil law. This system establishes specific and exceptional protective rules that align with their designated purpose, ensuring they remain available for use for as long as possible and are not encroached upon. This article addresses the protection granted to these assets by the Algerian legislator. This study has reached a number of conclusions.

Keywords: protection, public assets, Algerian law.

Introduction:

The concept of public assets expands and contracts based on the economic approach adopted by the state. The broader the state's intervention in economic activity, the broader the concept of public property becomes through the establishment of public institutions and bodies that are considered entities of public law, with their assets classified as public property. Furthermore, state-enacted laws can lead to an expansion of public ownership at the expense of private ownership. Conversely, in countries that adopt a free market economy, the concept of public assets is more limited as individual ownership is recognised. Due to the specificity of public assets, legislators have established a range of legal texts to protect these assets. What does the legal protection of public assets consist of in Algerian legislation? To address this issue, we will take an analytical approach, examining the relevant legal texts. Before discussing the legal protection granted by the legislator, this study will first seek to identify the key distinguishing criteria of public assets and their legal nature in jurisprudence and legislation.

First: Criteria for distinguishing public assets:

1. Jurisprudential criteria for distinguishing public assets:

French jurisprudence was the first to establish criteria for distinguishing public assets from private ones and developed several standards. The first criterion is the nature of the asset. The second is whether the asset is allocated for public service. The third is whether the asset is allocated for public benefit.[1]

A. Criterion of the nature of the asset:[2]

[1]- Abdel Ghani Basyouni Abdullah: Administrative Law, University Press for Printing and Publishing, Beirut, Lebanon, n.d., p. 261.

[2]- Mostafa Abu Zeid Fahmy: The Mediator in Administrative Law, Dar Al-Jamiah Al-Jadidah, Alexandria, n.d., p. 435.

This approach prevailed in France in the 19th century. French scholars, particularly Ducroc and Berthelemy, were at the forefront of establishing these criteria. They argued that public assets are inherently different from private assets. For real estate to be classified as public property, it must be such that it cannot be privately owned by nature. Ducroc relied on the texts of the old French civil code, particularly Article 538, to conclude that an asset must be inherently non-transferable to private ownership to be considered public. He also inferred that public property must be immovable, thus excluding movable assets. Conversely, Berthelemy contended that public assets differ in nature and reality from private assets, necessitating their independence under specific legal provisions as they cannot be owned or disposed of by individuals, thereby exempting them from private law. Accordingly, the definition of public assets was restricted to those designated for public use, with buildings excluded unless otherwise specified by law, in line with Ducroc's view.

However, this approach has been criticised for limiting the scope of public assets. Furthermore, the non-transferability of an asset does not stem from its inherent nature, but rather from its designation as public property. Consequently, almost all assets can be privately owned, including roads, ports and streets, unless they are designated as public property. Critics argue that proponents of this approach have overextended the provisions of the civil code, which makes no distinction between state-owned domains[3].

B. Criterion of Allocation of the Asset for Public Service:

This jurisprudential approach distinguishes public property from private property based on the idea of public service. Advocates of this approach, associated with the public service school (including Gues, Diji and Bonar), assert that public property acquires this status when it is directly allocated for use by a public facility for administrative purposes.

However, this criterion has been criticised for being both overly restrictive and expansive. It excludes many assets intended for direct public use unless they are allocated for the administration of a public facility. Conversely, it broadens the concept of public property to encompass all assets allocated to public facilities, regardless of their significance — even trivial office supplies such as pens and paper[4].

C. Criterion of Allocation of the Asset for Public Benefit:

In response to criticisms of the previous two criteria, French jurisprudence and case law have shifted towards a dual criterion based on allocation for public use and public facilities. Public assets are therefore defined as those designated for direct public use, as well as those allocated for public facilities. This means they are intended to benefit the public as a whole.

Given the implications of adopting this criterion, some scholars who support it have attempted to establish guidelines for its definition. For example, Dean Maurice Hauriou states that the allocation of public assets for public benefit must be decided by the administration. However, this perspective has been criticised for granting the administration broad discretionary power regarding the designation of public assets. Furthermore, the administration's decision in this regard is not an inherent characteristic that necessitates classification as public; rather, it is a means by which the administration

[3]- Abdel Ghani Basyouni Abdullah: Administrative Law, previous reference, p. 270.

[4]- Abdel Ghani Basyouni Abdullah: Administrative Law, previous reference, p. 271.

can confer public status on an asset[5].

Consequently, jurist Marcel Valin argues that an asset requiring classification as public must be essential and necessary for the operation of public facilities and for achieving the public interest, to the extent that it cannot be substituted or replaced without disrupting the operation of the public facility and endangering the public good[6].

2. Criteria for distinguishing national public assets in Algerian legislation:

The quest for a criterion to distinguish between public and private assets is important because the legal systems governing them differ significantly, particularly in terms of protective measures for public ownership. Public assets are specifically protected by rules regarding non-transferability, prescription and seizure. Furthermore, this distinction is important from a jurisdictional perspective: in comparative law, particularly in French law, disputes concerning public assets are the responsibility of administrative courts, whereas disputes concerning private assets are the responsibility of ordinary courts.

In Algeria, Article 800 of the Civil and Administrative Procedure Code outlines an organic criterion that grants authority to the administrative judge in both cases. However, depending on the situation, the judge applies either public or private law rules. The issue of establishing a criterion to differentiate between public and private assets only arises when the legislator remains silent. If the legislator intervenes and specifies what constitutes public property, the problem does not arise.

The Algerian legislator has adopted the allocation criterion for public benefit, which is the same criterion that is prevalent in French law and jurisprudence and has been advocated by scholars such as Hauriou and Valin. Article 12 of the amended National Property Law, supplemented by Article 6 of Law No. 08/14 dated 20 July 2008, states: 'National public assets consist of rights and properties, whether movable or immovable, which are used by everyone and made available to the public, either directly or through a public facility. These properties must be adapted in nature or undergo special preparation in order to align fundamentally with the specific purpose of this facility.' Natural resources defined in Article 15 of this law also fall under national public assets.[7]'

By incorporating this distinguishing criterion for public assets, the legislator has enabled judges to determine what constitutes public property in each disputed case. According to this article, allocation for public benefit can be through direct public use or allocation to a public facility[8].

Secondly: the legal nature of the state's right over its public assets.

There has been considerable doctrinal and judicial debate regarding the rights of administrative persons over public assets. One scholarly opinion denies the administrative person's ownership rights over public assets, while offering a different interpretation of their authority over these assets. In contrast, another scholarly view acknowledges a right of ownership, but disputes the nature of this ownership.

---

[5]- Baoni Khaled: Lectures on the Public Property System, University of Ammar Bouguerra, Boumerdes, 2016/2017, p. 6.

[6]- Abdel Ghani Basyouni Abdullah: Administrative Law, previous reference, p. 273.

[7]- See Article 06 of Law No. 08/14 dated July 20, 2008, amending and supplementing Law No. 90/30 dated December 1, 1990, concerning the National Property Law.

[8]- See Article 688: "Assets of the state include real estate and movable properties designated by law for public interest, administration, or public institutions." from Law No. 07/05, dated May 13, 2007, amending and supplementing Ordinance No. 75/58 concerning the Civil Code, Official Gazette, No. 31, dated May 31, 2007.

1. The scholarly opinion denying the existence of ownership rights:[9]

This perspective is based on the views of the jurist Proudhon, who argued that public assets are characterised by their inability to be transferred to private ownership. The state's right over public assets is seen as a matter of supervision, preservation and maintenance for the benefit of the general public. Jurist Ducroc characterised the authority of the administrative person over public assets as a right of guardianship, analysing ownership into three elements: the right to use, the right to exploit and the right to dispose. He asserted that the state's rights over public assets do not include the right to use them, as this right belongs to all people, since these three elements are absent. Furthermore, the state cannot exploit or dispose of public assets; rather, it typically holds supervisory, preservation and maintenance authority.

A group of jurists, including Berthelemy, followed Ducroc's views. They contended that, since the elements of ownership — disposal, exploitation and use — are absent, the state's right is not a right of ownership, but rather a supervisory and maintenance authority. Additionally, jurists from the public service school deny the state's legal personality and its ownership of public and private assets. They base their legal interpretation on the idea of allocation for public benefit, which contradicts the concept of ownership that assumes the prohibition of unrestricted use of the asset.

2. The Scholarly Opinion Supporting Ownership Rights:

While Proudhon, a jurist, was the first to deny the state ownership of public assets, reducing its right to mere supervision and maintenance — a view followed by many scholars — Hauriou, also a jurist, was the first, in the late 19th century, to acknowledge the state's ownership of public assets and defend it vigorously. This view was supported by many other jurists and has been adopted by the majority of modern legal thought. Thus, both doctrine and jurisprudence have established that the administrative person's right over public assets is a conventional ownership right, constrained by the asset's allocation for public benefit. This right is narrower than private ownership due to the principle of non-disposal, provided the asset is designated for public benefit. This opinion is considered the prevailing view, based on the following arguments:[10]

The notion of individual ownership as an absolute right no longer exists. Ownership is now regarded as a social function, whereby an owner's powers are restricted if they conflict with public interests and, in cases of abuse of rights, even private interests. Therefore, restrictions imposed on public assets allocated for public benefit do not prevent the administrative person's right to ownership of its assets being recognised. The administrative body has the right to use public assets allocated for public services and to exploit the benefits derived from these assets. Additionally, the administrative person holds the right to dispose of these assets, albeit by following specific procedures involving the removal of the public benefit allocation from the asset in question.

Jurisprudence recognises the administrative person's ability to file lawsuits typically reserved for owners, such as possession actions to prevent encroachments on public property, claims for restitution and claims for ownership of fruits and shared walls.

3. The Position of the Algerian Legislator:

[9]- Abdul Razak Al-Sanhouri: The Mediator in Explaining the Civil Code, Vol. 8, Right of Ownership, Dar Ihya Al-Turath Al-Arabi, Beirut, p. 90.

[10]- Nawawi Ahmed: The Legal System of National Public Property in Algerian Legislation, Doctoral thesis, Mohamed Khider University, Biskra, Department of Law, Real Estate Law specialization, 2017, p. 199.

The Algerian legislator has explicitly determined that territorial entities' rights over their public assets constitute ownership rights. This is stated in Articles 688[11] and 962 of the Civil Code, as well as in Article 2 of the aforementioned National Property Law No. 90/30[12].

Third: legal protection of public ownership:

The Algerian legislator has granted constitutional protection to certain components of national property, which represents the highest level of protection[13]. As the constitution is the supreme law of the land, all other legislation must comply with its provisions. No legislation enacted by the legislative authority, or any subordinate legislation enacted by the executive authority, may conflict with a constitutional text; otherwise, it would be deemed unconstitutional.

Having distinguished between types of national property, the legislator has conferred the necessary legal protection upon them. The legal protection of public assets refers to the legal rules stipulated by law to ensure public property continues to serve the public good. Public assets are protected within two legal frameworks: civil and criminal. Civil protection aims to subject public assets to civil legal rules, while criminal protection is regulated by criminal law and stipulates penalties for violations.

The legislator also addressed legal protection in the National Property Law, indicating the sources of the protective rules in Article 66 of this law. The forms of protection can be divided into civil, administrative and criminal protection as follows:

1. Civil protection of public ownership:

This means applying the provisions and rules stipulated by civil law to ensure public property effectively serves the public interest.[14] This protection has been enshrined by the legislator in Article 689 of the Civil Code as general law, and its provisions are also included in Article 66 of the aforementioned National Property Law. This is preceded by Article 4 of the same law in its first paragraph, which states: 'National public assets are not subject to disposal, prescription, or seizure.'

A. Non-transferability of public assets:

The essence of this principle is that public property is validly owned by the administration to which it belongs. However, this property is primarily allocated for public benefit, meaning that the administration holding it cannot dispose of it in a way that contradicts its designated public purpose, whether for consideration (e.g. sale) or without

---

[11]- Article 688: "Assets of the state include real estate and movable properties designated by law for public interest." and Article 962 of the Civil Code: "All water resources are considered the property of the national community."

[12]- "National properties include all movable and immovable properties owned by the state and its regional groups in the form of public or private ownership. These national properties consist of:
- Public and private properties belonging to the state.
- Public and private properties belonging to the province.
- Public and private properties belonging to the municipality."

[13]- See Article 19 of the Constitution, which states: "The state guarantees the prudent use of natural resources and their preservation for future generations. The state protects agricultural lands and public water properties." Law No. 16-01 dated March 6, 2016, concerning the constitutional amendment, Official Gazette No. 14 dated March 7, 2016.

[14]- Mohamed Jamal Motaq Al-Dhanibat:The Brief in Administrative Law, International Scientific Publishing and Distribution House, and Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, 2003, p. 360.

consideration (e.g. gift)[15].

Consequently, there are types of transactions that suit public assets while maintaining their public nature, as they do not contradict their allocation for public benefit[16]. Examples include exchanges of public property between different administrative entities, whereby the public asset is transferred from the state to a province or municipality, or vice versa. The state may also grant concessions for public facilities involving public property, and grant individuals the right to use public property for private purposes[17].

B. Non-transferability of public assets:

This principle is a necessary consequence of the prohibition on the disposal of public assets. As these assets cannot be transferred to others, ownership cannot be acquired through prescription either. This means that individuals cannot claim ownership of public assets simply by possessing them for an extended period. Furthermore, such possession does not qualify for a possession claim, since in legal terms it constitutes only temporary possession, which is not safeguarded by claims designed to protect legal possession. Possession of public assets is considered unlawful and thus not protected by possession claims[18].

Notably, when the Algerian legislator amended the National Property Law in 2008, they established that national property, whether public or private, is not subject to prescription. Previously, National Property Law No. 90/30 of 1990 only stipulated that public assets were not subject to prescription, thus excluding private assets[19].

C. Non-transferability of public assets to seizure:[20]

This rule supplements the prohibition on the disposal of public assets. Once it is established that public property cannot be disposed of in a manner that contradicts its allocation for public benefit, it follows that public assets cannot be seized or subjected to compulsory execution. The prohibition on seizing public assets is based on the logical principle that pursuing compulsory execution against public entities is ineffective for creditors and conflicts with the public interest. This is because the state and local communities are presumed to be solvent since the law assumes that their liabilities are always covered, enabling them to fulfil their obligations at any time without the need for coercive measures.

Furthermore, it infringes the public interest. If public assets that play a crucial role in operating essential public facilities were to be subject to compulsory execution, thereby removing them from their public benefit allocation, it would cause significant harm to the public interest in favour of a private creditor's interest, which is of lesser importance and severity.

The essence of the rule is the prohibition of any enforcement actions by individuals against public assets to compel the administration to fulfil its debts to private individuals. The concept of seizure covers all forms of compulsory execution recognised in civil law. This rule is inherently linked to the continued allocation of assets for public benefit and

[15]- Nawaf Kanaan: Administrative Law (Book Two), Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2005, p. 396.

[16]- See Articles 63, 66, and 73 of the amended and supplemented National Property Law mentioned above.

[17]- Baoni Khaled: Lectures on the Public Property System, previous reference, p. 50.

[18]- Baoni Khaled: Lectures on the Public Property System, previous reference, p. 50.

[19]- See Article 4 of Law 08/14 amending and supplementing Law No. 90/30 of 1990.

[20]- Badr Chnouf: Lectures on National Properties, previous reference, p. 91.

the retention of their public character. However, following the amendment of the National Property Law, the Algerian legislator broadened the scope of this rule to include private national property by amending Article 04, which now states: 'Private national assets are not subject to prescription or seizure, except for contributions allocated to public economic institutions...' Consequently, the prohibition on seizing public assets now encompasses all elements of national property, whether public or private, in various forms and regardless of their allocation for public benefit.

2. Administrative protection of public ownership:

This refers to the actions and efforts made by the administration to maintain and preserve public assets, leveraging its privileges and role in monitoring their organisation and operation. Public assets are primarily allocated for public benefit. To ensure these assets remain dedicated to their intended purpose and do not diverge from public interest objectives, the legislator has provided the administration with adequate material and legal means to protect public assets from theft, encroachment or damage.

To this end, the legislator has imposed obligations on the owners and users of public assets, regardless of their status within administrations and institutions. These obligations are aimed at safeguarding public assets from violations by third parties or even the administration itself. This includes positive violations, where the administration acts unlawfully regarding these assets, and negative violations, where the administration fails to fulfil the duties imposed by the legislator to organise, exploit, manage and protect public assets for the public benefit for which they were established.

Administrative protection of public ownership manifests itself in the following forms and aspects:[21]

A. Ensuring the preservation of national assets:

One of the administrative protection measures for public assets is the preservation system outlined in Article 68 of the amended National Property Law. This article states: 'The preservation system, alongside the system for the use of national assets, forms part of the national property system aimed at ensuring the preservation of public national assets under appropriate legislation accompanied by penal sanctions.' To ensure the physical preservation of certain aspects of national assets, the administrative authority responsible for preserving public national assets is granted the power to establish regulatory rules...' This is achieved by issuing specific administrative regulations to protect public national assets from damage due to continuous use or possession with the intent to claim ownership.

B. General Inventory of National Assets:

The inventory is a descriptive and evaluative process focusing on real and movable properties. Its aim is to protect national assets and ensure they are used for their intended purposes. The inventory of national assets is an obligation placed on the owning administration, whether the state or a regional community, as well as on the bodies and services designated for public property. One inventory is prepared for state assets and another for regional community assets, based on the detailed inventories stipulated in Executive Decree No. 91/455 regarding the inventory of national assets[22]. A general

[21]- Mazhoud Hanan: Mechanisms for Protecting Public Funds in Algerian Law, PhD thesis, University of Tizi Ouzou, Faculty of Law and Political Science, Real Estate Law specialization, 2019-2020, p. 56.

[22]- Articles 5 and 6 of Executive Decree No. 91/455 dated November 23, 1991, concerning the inventory of national properties, Official Gazette, No. 60 issued on November 24, 1991.

inventory of national assets is then compiled from these two inventories and is continuously updated according to the legally specified conditions and forms.

The obligation to take an inventory of national assets is of great importance, both in itself and in terms of the goal it aims to achieve: the effective monitoring of public property and oversight of its movement within a single administration or among various administrations. The inventory record can be reviewed to monitor the extent to which the actual allocation aligns with the intended purpose and objective. This record serves as an accounting register for national assets, facilitating their oversight.

C. Maintenance of Public Assets:

The administration is responsible for maintaining public assets designated or allocated to it. This obligation is one of the key distinguishing features of the legal system governing public assets and is not present in private law, where owners are not required by law to maintain their property[23].

The maintenance of national public assets involves the actions taken by the relevant authority to protect these assets from potential harm and mitigate any threat to their continued allocation for public benefit[24]. The amended National Property Law 90/30 and Executive Decree No. 12/427 stipulate the obligation to maintain public assets in order to ensure their protection. The latter outlines the conditions and methods for managing and operating public and private assets belonging to the state.

The rationale behind the maintenance obligation imposed on the owning or managing authority is clear: to protect public property. This duty requires the safeguarding of public assets from damage caused by the administrative authority itself through its employees' negligence in fulfilling their maintenance duties, improper use by individuals, or any other cause.

Furthermore, the administration is responsible for maintaining public assets in order to avoid liability and prevent having to compensate individuals for damages incurred while using public assets due to their poor condition resulting from neglect of maintenance. There are no criminal penalties for failing to meet maintenance obligations imposed on administrative entities. Instead, administrative liability may be imposed on the administrative authority responsible for maintaining the assets if neglecting this duty results in harm to others[25].

Failure to adhere to the maintenance obligation means the responsible party must bear the consequences of this neglect and is liable for damages. They may also seek recourse against other parties based on agreements and contracts governing their relationships. If the matter concerns a concessionaire of a public facility, the concessionaire is usually responsible for any damages arising from neglecting the maintenance of the public asset under their management.

The penalty for failing to fulfil the maintenance obligation may include the administrative authority exercising oversight compelling the negligent party to fulfil this duty, or

[23]- Mohamed Mohammed Ahmed Al-Droubi: Legal Protection of Public Funds in the Republic of Yemen: A Comparative Study, PhD thesis, Faculty of Law, Ain Shams University, 2011, p. 494.

[24]- Mohamed Mohammed Ahmed Al-Droubi: Legal Protection of Public Funds in the Republic of Yemen, previous reference, p. 493.

[25]- Mazhoud Hanan: Mechanisms for Protecting Public Funds in Algerian Law, p. 30.

performing it directly at their expense[26].

3. Criminal Protection of Public Ownership:

This concept originated in the traditional French legal system, which imposed criminal penalties for any damage caused to public property, including public roads, parks, beaches and archaeological sites. The French legislator assumes an element of fault in such cases; offenders cannot avoid punishment by proving their lack of fault, as they can only be excused in the event of force majeure. The criminal penalty consists of fines and covering the cost of repairing the damage to public property and restoring it to its condition prior to the offence.

The purpose of this protection is to safeguard public assets from individual encroachments that could disrupt or harm the public benefit they are intended to serve. These criminal provisions are not consolidated into a single piece of legislation, but are instead scattered across the Penal Code and various legal texts related to public property, such as water, forests and public roads, as well as the National Property Law. This diversity and dispersion of texts makes it difficult to catalogue the provisions related to this protection.

The criminal protection included in the Penal Code is not limited to national public assets; it extends to all administrative property, meaning all assets held by the state and other public entities. Notably, Algerian legislation has evolved to enhance the protection of public assets, as evidenced by the introduction of anti-corruption provisions that complement the Penal Code. The strengthening of the legal framework for the criminal protection of national assets is a priority for public authorities, ensuring the assets are exploited and preserved in a way that is sustainable[27].

The legislator has included various provisions ranging from the Penal Code to specific laws based on the nature of each asset. Section Three of Chapter Three of Part Three of the National Property Law, titled 'Criminal Provisions', addresses criminal protection in Articles 136 to 138. Article 136 explicitly states the penalties for all forms of encroachment on national assets and refers to the Penal Code for further details, while Article 138 specifies that the prosecution of individuals accused of encroaching on national assets shall follow the rules and procedures established in the Code of Criminal Procedure.

The Algerian legislator criminalises intentional attacks on public assets designated for public benefit, imposing stricter penalties for intentional violations, as well as those arising from negligence or lack of caution, and violations of regulatory provisions. The aim is to protect assets from any actions that threaten their integrity and unity. Additionally, criminal protection under Algerian law is derived from various texts that prescribe criminal penalties for individuals who cause damage to public assets, whether intentionally or unintentionally. These penalties are based on provisions in the Penal Code and other specific laws that govern the use of certain elements of national public property.

Therefore, any assault on national assets is punishable under Article 386 of the Penal

[26]- Mohamed Farouk Abdel Hamid: The Contemporary Development of the Theory of Public Funds in Algerian Law: A Comparative Study, University Publishing House, Algeria, 1984, p. 211.

[27]- Boumzber Badis: The Legal System of Public Funds in Algerian Legislation, Master's thesis in Public Law, Faculty of Law and Political Science, Mentouri University—Constantine, 2011/2012, p. 108.

Code, which serves as the general rule governing encroachments on real property, whether private or public[28].

Conclusion:

Public assets are properties owned by the state, regional communities and administrative institutions in order to fulfil their functions. These assets are divided into two categories: some are owned by the state as ordinary property for exploitation and investment purposes, enhancing its resources; others are designated for public benefit and are subject to a legal system that differs from that governing private property. These public assets cannot be disposed of, seized, or acquired through prescription, and they are referred to as public property.

Algerian legislation, like other comparative legal systems, has focused on public and private assets belonging to the state and local communities, particularly with regard to definition and regulation. This focus is evident in the clarity and detail with which it is addressed in the constitution and the Civil Code, which dedicates two articles to it, as well as in the specific law, the National Property Law, which includes a comprehensive legal system that distinguishes public assets from other properties and outlines mechanisms for their protection.

Based on the above, the study reached the following conclusions:

1. The search for a criterion to distinguish public assets from private assets has practical implications, given that the legal systems governing each are different, particularly in terms of the protective nature of public ownership.

2. The Algerian legislator adopted the criterion of allocation for public benefit in the Civil Code.

3. The Algerian legislator explicitly stated that territorial entities' rights over their public assets constitute ownership rights in both the Civil Code and the National Property Law.

4. The Algerian legislator emphasised the legal protection of public assets in both the Civil Code, as the general law, and the National Property Law.

References:

1. Laws and Decrees:

- Law No. 16-01, dated 6 March 2016, concerning the constitutional amendment (Official Gazette No. 14, dated 7 March 2016).

Law No. 07/05 dated 13 May 2007 amending and supplementing Ordinance No. 75/58 concerning the Civil Code (Official Gazette No. 31 dated 31 May 2007).

Law No. 08/14, dated 20 July 2008, amending and supplementing Law No. 90/30, dated 1 December 1990, concerning national property.

Executive Decree No. 91/455, dated 23 November 1991, concerning the inventory of national assets (Official Gazette No. 60, issued 24 November 1991).

2. Books:

1. Mohamed Jamal Motalk Al-Dhanibats: Concise Administrative Law, International Scientific Publishing House and Dar Al-Thaqafa, Amman, Jordan, 2003.

[28]- Mohamed Farouk Abdel Hamid: The Contemporary Development of the Theory of Public Funds in Algerian Law: A Comparative Study, University Publishing House, Algeria, 1984, p. 365.

2. Mohamed Farouk Abdel Hamid: Contemporary Development of the Theory of Public Assets in Algerian Law: A Comparative Study', University Publications Bureau, Algeria, 1984.

3. Mostafa Abu Zaid Fahmy: The Intermediary in Administrative Law, New University Press, Alexandria, undated.

4. Nawaf Kanaan: Administrative Law (Volume Two), Dar Al-Thaqafa, Jordan, 2005.

5. Abdel Razak Al-Sanhouri: The Intermediary in Explaining the Civil Code, Vol. 8: Property Rights, Dar Ihya Al-Turath Al-Arabi, Beirut.

6. Abdel Ghani Basyouni Abdullah: Administrative Law, University Printing and Publishing House, Beirut, Lebanon, undated.

3. Doctoral and Master's Theses:

1. Boumazber Badis: 'The Legal System of Public Assets in Algerian Legislation', Master's Thesis in Public Law, Faculty of Law and Political Science, Mentouri University, Constantine, 2011/12.

2. Mohamed Mohammed Ahmed Al-Droubi: 'The Legal Protection of Public Assets in the Republic of Yemen: A Comparative Study', doctoral thesis, Faculty of Law, Ain Shams University, 2011.

3. Mazhood, Hanan: 'Mechanisms for Protecting Public Funds in Algerian Law', doctoral thesis, University of Tizi Ouzou, Faculty of Law and Political Science, specialisation in real estate law, 2019–2020.

4. Al-Nouaoui Ahmed: 'The Legal System of Public National Assets in Algerian Legislation', doctoral thesis, Mohamed Khider University, Biskra, Department of Law, specialisation in real estate law, 2017.

4. University publications:

1. Badr Chnouf: Lectures on National Property Law, Faculty of Law and Political Science, University of El Oued, 2019.

2. Khaled Baouni: 'Lectures on the System of Public Assets', University of Ammar Targui, Boumerdes, 2016/17.