

Regulations for Benefiting from Financial Entitlements under Law No. 24-01 Containing Special Provisions for Obtaining Maintenance

لوائح الاستفادة من الاستحقاقات المالية بموجب القانون رقم 01-24 الذي
يتضمن أحكاماً خاصة للحصول على النفقة

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ABSTRACT:

ملخص باللغة العربية:

Law No. 24-01, which outlines special measures for obtaining alimony, is one of the key texts reflecting the state's role in protecting the family through strictly judicial conditions and procedures. It places the Alimony Fund under the Ministry of Justice, allowing the State to subsidiarily pay financial dues in certain cases under specific legal rules.

يعد القانون رقم 01-24 المتضمن تدابير خاصة للحصول على النفقة من أهم النصوص التي تجسد دور الدولة في حماية الأسرة وفق شروط وإجراءات قضائية محضنة. ذلك أنه جعل صندوق النفقة تحت وصاية وزارة العدل، فتتدخل الدولة احتياطياً لدفع المستحقات المالية في حالات معينة، وفق ضوابط محددة.

Keywords: Financial Entitlements; Custodian; Divorced Woman; Maintenance Fund; Divorce.

كلمات مفتاحية: مستحقات مالية؛ محضون؛ مطلقة؛ صندوق النفقة؛ طلاق.

Introduction:

A legitimate marriage has several financial and non-financial repercussions, all of which are public policy. These consist of mutual responsibilities between the couples, with some falling on the husband and others on the wife. Financial support is one such responsibility; the husband is expected to give it to his wife once the marriage contract is set in line with Algerian law. The father, too, is required to assist his children unless they possess their own financial resources. Should the father be unable to meet this duty, it passes to the mother, assuming she is able.

This financial responsibility holds during the marriage as well as after divorce. The law allows for maintenance for a divorced woman during the 'iddah period, maintenance for neglect, and compensation in the case of harm or wrongful divorce by the husband. Whether the custodian is the mother or another guardian, the father is also in charge of his dependent child's upkeep. These responsibilities, therefore, only become enforceable after a court ruling or decision stating the sums.

Though legally required to pay these sums, the person responsible might not choose to do so, therefore jeopardizing the creditor's interests. Consequently, the law defends this right by means of criminal sanctions for nonpayment of alimony.

Though criminal cases could be started and a criminal judgment handed down, this does not ensure the amounts due will be received by the creditor, particularly if the debtor is unable or unwilling to pay¹. Establishing the alimony fund under Law No. 15-01² first created it, which has prompted governments to act via policies meant to safeguard the family and, more especially, the child's best interests. After practical

1The first paragraph of Article 71 of the Constitution states: "The family enjoys the protection of the state. The rights of the child are protected by the state and the family, with consideration for the best interests of the child.". Presidential Decree No. 20-442, dated 30/12/2020, concerning the issuance of the constitutional amendment approved in the referendum of November 1, 2020, Official Gazette dated, No. 82, 30/12/2020.

2 Law No. 15-01, dated 04/01/2015, establishes the abolished alimony fund, Official Gazette dated, No. 1, 07/01/2021.

application, the divorce rate rose, which led society to condemn the alimony fund as a financial source satisfying the needs of dependent children and divorced women when the father is unable to pay.

Often attacked for its flaws and omissions, this legislation has been included into the National Solidarity Fund under the 2021 Finance Law. The law was then closed until Law No. 24-01¹, which defined particular processes for acquiring alimony, was published.

This study in the framework of this law intends to highlight the financial rights of the maintenance fund and the qualifying criteria to use it. Aiming to clarify the law, the legislator has set both substantive and procedural guidelines to acquire these entitlements.

Given its vital part in fulfilling human needs, money is the lifeblood of life, therefore the significance of the subject is connected to this. The stability of the person under custody depends on maintenance, which Law No. 24-01 aims to ensure by giving the divorced woman and the child consistent financial support, therefore ensuring their daily needs or at least some of them. This offers the family security by reducing the negative consequences of divorce on both women and children.

The legal clauses set by the legislator have let the fund pay the owed sums to the rightful beneficiaries under legal conditions replacing the debtor who fails to follow the maintenance ruling. The fund can then follow the debtor under special procedures; however, this issue is outside the scope of this research. Rather, the emphasis is on the financial entitlements and all issues connected to them. This leads to the next inquiry:

What are the regulations established by the legislator to enable the maintenance creditor to obtain financial entitlements from the maintenance fund under Law No. 24-01?

A set of techniques appropriate for this analytical and critical research was used to address this problem. Legal texts were mostly examined using the analytical approach; the

1 Law No. 24-01, dated 11/02/2024, includes special provisions for obtaining alimony, Official Gazette dated, No. 1,0, 11/02/202.

descriptive approach was used to present certain ideas connected to the subject.

The subject is broken down into two primary parts:

Content of Financial Entitlements and Conditions for Benefiting from Them (the first topic), the Procedures for Benefiting from the Alimony Fund (the second topic).

THE FIRST TOPIC

Content of Financial Entitlements and Conditions for Benefiting from Them.

Obtaining maintenance from the debtor especially in situations where the debtor acts in bad faith and refuses to pay in order to harm them is one of the greatest challenges the custodian and the child face following divorce and even before the ruling is issued. Law 24-01 sought to streamline the processes for the maintenance creditor or their legal representative following the issues noted in the application of the prior legislation, including the buildup of many pending cases and delays in maintenance payments to those entitled to it. It is first required to look at the material and the qualifying criteria for financial entitlements , before addressing the clauses connected

First Requirement:

Content of Financial Entitlements.

Finding the material of financial entitlements calls for defining them, differentiating them from alimony, determining the beneficiaries, and evaluating their expiration .

First section: Definition of Financial Entitlements and Alimony

According to Article 02 of Law No. 24-01, financial entitlements are defined as the sum of money that the state pays to the alimony creditor, which is equal to the alimony amount. As a result, the lawmaker has attested that monetary benefits equal alimony.

According to the same article, alimony is defined as the monetary sum decided by a court in compliance with the Family

Law provisions for the benefit of a child or children under custody after the parents' divorce, as well as temporary alimony given to the child or children in the event of a divorce lawsuit. According to Article 222 of the Family Law¹, the article cites the Family Law as the definition of alimony, which should be consulted to ascertain its scope, as well as Islamic jurisprudence in cases where no explicit provision exists.

So, alimony is required for the maintenance of the child by the financially able father given it exceeds the requirements of the father and his wife. The familial relationship between the father and his children as well as their inability to work causes this alimony, which would otherwise endanger them².

Furthermore, Article 78 of the Family Law says: "Alimony comprises housing or its rent, medical care, food, clothing, and what is deemed a need according to custom and practice." Therefore, financial entitlements comprise alimony as set by the family court judge, which is granted to the custodial parent or the divorced party under a ruling or an urgent order. This paper offers illustrations of what constitutes alimony; the judge could broaden the meaning depending on societal norms. For example, the court has deemed water, gas, and power bills as necessities³. As alimony includes housing, it also covers rental payments. Furthermore, the financial entitlements include the child's schooling costs; the Supreme Court has

1 Law No. 84-11, dated 09/06/1984, includes the Family Law as amended and supplemented by Ordinance No. 05-02, dated 27/02/2005, Official Gazette, No. 15, 2005.

2 Daoudi Abd al-Qader, *Family Provisions Between Islamic Jurisprudence and Family Law*, Al-Basa'ir, Algiers, 2016, p. 244.

3 "Included in the alimony are the expenses for water, gas, and electricity, and the failure to pay them constitutes a misdemeanor of non-payment of alimony." Supreme Court, Criminal and Offenses Chamber, Case No. 0998466, 17/11/2016, Journal of the Supreme Court, No. 2, 2016, p. 415.

acknowledged the expense of formal education¹, as one factor to be considered when determining alimony.

The judge has to take both parties' financial situation and living situation into account while determining alimony. Article 79 of the Family Law states that the judge's evaluation cannot be reviewed before one year from the judgment; hence, alimony is determined by considering the economic, social, and living circumstances of both parties². The judge's ruling is the same as the financial entitlement the alimony creditor gets from the fund.

Section Two: Beneficiaries of Financial Entitlements

Custodial children and divorced women are the beneficiaries of the alimony fund, according to Article 1 of Law No. 24-01, which contains special provisions for obtaining alimony. According to Article 02, the child or children in custody who have received alimony legally and are represented by the person in charge of custody, as well as the divorced woman who has received alimony legally, are considered alimony creditors.

Therefore, the following people profit from financial entitlements:

1. Custodial Child:

A "custodial child" is a child who is in custody from the time of birth until the conclusion of the custody period. According to Article 65 of the Family Code, this period for a boy legally ends when he turns ten, but it may be prolonged

1 "The study for which a child is entitled to alimony refers to formal education according to the regulations in force at each stage, related to the age for schooling, and not distance learning." Supreme Court, Family and Inheritance Affairs Chamber, 13/07/2016, Case No. 0997381, Journal of the Supreme Court, No. 2, 2016, p. 86.

2 Saad Abd al-Aziz, *Algerian Family Law in its New Form, Provisions of Marriage and Divorce after Amendment*, 3rd ed., Dar Houma, Algiers, 2018, p. 116.

until he turns sixteen if the custodial mother has not remarried and the child's best interests are taken into account. According to Article 07 of the Family Code, a girl's custody ends when she reaches the age of marriage, which is 19 years old. It should be mentioned that a custodial girl who marries before becoming legally married with a judge's approval forfeits custody after getting married because her husband receives her alimony after they consummate their marriage.

Law No. 24-01 also refers to "custodial child" even though, per Article 2 of the Child Protection Law and in international treaties, the stage of childhood ends when one reaches 18 years of age.¹ Thus, legally speaking, a person who has turned 18 but not yet 19 is still under custody but not a "child."

Therefore, the custodial child is entitled to financial benefits even if they have turned 18 but have not yet turned 19 provided the custody is based on a court decision in the event of parental divorce.

2. Child Temporarily Awarded Alimony:

Since alimony is regarded as a temporary measure that cannot be postponed, a child is entitled to financial entitlements prior to the issuance of a divorce decree and the assignment of custody. According to Article 57-bis of the Family Code, which reads: "The judge may decide on urgent matters by order, including temporary measures, particularly those related to alimony, custody, visitation, and housing," the alimony fund is in charge of paying it in line with the law, so long as an urgent order is issued outlining the alimony amount.

Judges of the court of first instance or the court of appeals may allow temporary alimony. At first look, this could be challenging since the appealed ruling is an enforceable title that could start execution. The appealed judgment, though, might have refused the alimony application; by means of appeal, the

¹ Law No. 15-12, dated 15/07/2015, concerns the protection of children, Official Gazette dated, No. 39, 19/07/2015.

opposing side has the right to seek provisional alimony. This is not a new request; rather, it is an urgent request for part of the anticipated amount before the final judgment is rendered, so the principle of not permitting new requests in the appeal stage does not apply here.¹

3. Divorced Woman Entitled to Alimony:

If the judge has ordered an alimony amount, a woman who has been divorced—whether through a judicial divorce, a khula (divorce started by the wife), or a wrongful divorce—can benefit from the financial entitlements provided by the state. This refers to a divorced woman without mentioning any specific type of divorce. Article 74 of the Family Code states that "the husband is obligated to provide alimony to his wife upon consummation of the marriage or by inviting her to him with evidence..." Thus, the husband must provide for his wife after the marriage is consummated, and he must continue to do so even if they are involved in a legal battle, unless she is disobedient, until the divorce decree is issued.

The alimony fund does not pay temporary alimony to the wife as it does for children under Law No. 24-01; rather, it pays only the alimony set by a court decision. A divorce judgment must therefore be issued together with the alimony amount set. The divorced lady could then seek help from the alimony fund.

The question then is whether all forms of alimony ordered for the divorced woman are covered by the alimony fund. As specified in Articles 80 and 61 of the Family Code, respectively, this covers neglect alimony and alimony during the 'iddah period.

The judge then decides the wife's alimony from the date the divorce ruling is issued until the date the case is filed. Given the wife's evidence supporting her assertion, the judge might

1 Mahrouk Karima, *Temporary Measures in Family Matters in Light of the Amendment to Algerian Family Law*, Journal of Legal and Political Sciences, Constantine University, Algeria, Vol. 10, No. 2, 2019, p. 324.

also decide she qualifies for alimony for up to one year before the lawsuit is filed, which would be deemed neglect alimony.

Maintenance during the waiting period (iddah) is legally set in case of a revocable divorce since the marriage is still regarded as ongoing. The divorce decision in Algerian family law is an irreversible one; hence, the legislator has matched the terms of a revocable divorce with those of an irreversible one. In all forms of divorce, therefore, the divorced woman is entitled to maintenance during her waiting time. Determined by the judge, this maintenance is based on three menstrual cycles for women who still menstruate, usually projected to be three months. Post-menopausal women have a monthly sum computed over three months. A pregnant woman's maintenance carries on until she delivers.

Ordered by the judge in a last decision, this maintenance turns into a financial entitlement from the maintenance fund should the debtor neglect to pay it.

Compensation for the damages resulting from divorce, as specified by the Family Code for example, compensation for the husband's misuse of his right to terminate the marriage under Article 52, and compensation for the damages suffered by the wife in the event of a ruling for divorce under Article 53 does not fit the definition of financial entitlements. Should the husband neglect to pay such damages, the maintenance fund does not cover them.

Section Three: Loss of the Right to Benefit from Financial Entitlements

The maintenance fund ceases to provide financial entitlements, which we will describe as follows:

1. Loss of Custody Right

In this respect, Article 05 of Law No. 24-01 alludes to the Family Code provisions. According to Articles 66 and 67 of the Family Code, custody is lost for various reasons, the most significant of which are the failure to satisfy the criteria for custody, the custodian's remarriage to someone who is not a

mahram (close relative) of the child, and the loss of custody by the grandmother or aunt if they live with the child's mother, who has remarried someone who is not a mahram to the child. Voluntary waiver or the custodian's residence with the child in a foreign country also cause loss of custody. In every such situation, the court has to take into account the child's best interest.

The literal interpretation of the text indicates that if custody is lost, the child forfeits right to gain from financial entitlements. The issue brought up here is whether the child loses the right to benefit from the financial entitlements permanently should custody be lost.

Actually, the law offers no obvious response to this issue. The judge, though, assigns the custody to another guardian given the order of guardianship stated in Article 62 of the Family Code after deciding the loss of custody. Simultaneously, the judge decides the child's maintenance sum. Should the debtor fail to pay, the child's right to benefit from the maintenance fund is restored by means of a fresh case and request; provided the legal criteria are satisfied, the child is entitled to obtain financial entitlements.

2. Expiration of Custody

Financial entitlements' right to benefit ends with the end of custody. Family Law states that custody ends when a boy turns ten; if the custodian is an unmarried mother, it may be extended to 16 years. For a girl, custody finishes on reaching the age of marriage. Once the kid attains this age, their entitlement to gain from the alimony fund is cancelled.

The first noteworthy difference between the Law No. 24-01 and the Family Law texts is the legislator's view that financial entitlements are equal to alimony under Article 1 of Law 24-01, which also addresses the Family Law. Alimony, on the other hand, does not cease with the end of custody. Unless he is self-sufficient, it lasts for a boy until he reaches adulthood and for a girl until she marries. Moreover, according to Article 75 of the Family Law, alimony persists even after turning adult

if the person is still studying or has a mental or physical handicap.

The law has therefore deprived some kids of financial rights when they are in dire need of them, especially to carry on their studies. For example, a 16-year-old boy loses custody and therefore loses his entitlement to finances. This might push him to work under poor conditions to make a living, therefore causing school dropout and other unfavorable effects. At the very least, the legislator should have said the end of the right to benefit from the alimony fund at the conclusion of childhood, or when the child turns 18.

The child's benefit from financial entitlements thus lasts less time than their benefit from alimony, which lasts even after custody terminates.

3. Proof of Alimony Payment by the Debtor

According to Law No. 24-01, the alimony debtor is the father of the kid or the ex-husband of the divorced woman. The father's denial to pay the alimony set by the court clearly puts the state in charge of paying it under certain circumstances. The fund ceases to pay these sums even after the child has gained from financial entitlements if the father's payment is shown. The law thus mandates annual file updates, as will be clarified.

Though they can be shown by normal methods of evidence including receipts, payment records, or bank statements among others, the law does not define how to prove alimony payments. The judicial officer computes the alimony; the judge sets the beginning date for its computation. In accordance with Article 613 of the Civil and Administrative Procedures Law, the husband is informed of the judgment, which is sealed with an enforceable clause, and is required to pay the alimony within 15 days from the date of official notification.

The husband is required to pay the alimony sum into the judicial officer's account at the public treasury after being notified following the usual process; this then distributes it to

the wife by means of a check, therefore enabling her to get the alimony amount. Should the husband decline to pay the court-ordered sums, the judicial officer drafts a report of refusal to pay alimony against him and gives the wife a copy so she may act legally as required¹. The husband's report of refusal to pay alimony is proof of debtor non-payment.

The debtor must show alimony payment. Thus, following the Article 333 of the Civil Code², the debtor has to show either a receipt of alimony payment or other proof since, under the principle, the creditor must establish the obligation and the debtor must show discharge of the obligation. The alimony debtor has to show that the obligation has been met to prevent the alimony fund from being held responsible.

4. Resumption of Marital Life

Should the marital relationship be resumed during reconciliation efforts, this scenario denies the child the right to gain from financial entitlements. The child's right to financial entitlements ends with the parents' reconciliation and resumption of marital life if they had been granted temporary alimony and the fund had paid it.

Regarding the divorced lady, based on the literal reading, she is excluded from this decision since the fund does not provide her temporary alimony. Rather, when a divorce decree is issued, the fund pays her the court-ordered alimony sum. Restoration of married life only applies before the divorce decree is issued. The fund is responsible for the payment in the event the divorce decree has been issued and the husband neglects to pay the ordered alimony sums. Her alimony is set and not ongoing, unlike the alimony for a custodial child, so she cannot waive her financial entitlements even if she remarries.

1 Lajlat Fouaz, *Issues in the Enforcement of Court Judgments in Family Matters*, Journal of Legal and Political Research, Faculty of Law and Political Science, Saida University, Vol. 8, 2017, p. 108.

2 Ordinance No. 75-58, dated 26/09/1975, concerning the Civil Code as amended and supplemented, Official Gazette, No. 78, 30/11/1975.

The legislator should have been more exact in writing the text since, as in the case of a custodial child, the right is terminated by the parents' remarriage, not by the resumption of marital life before the divorce decree is issued.

Second Requirement:

Conditions for Benefiting from Financial Entitlements from the Alimony Fund.

Chapter II of Law 24-01 deals with this topic; Article 03 reads: "Financial entitlements, as described in the preceding article, shall be paid if the full or partial execution of the order or court judgment specifying the alimony amount is impossible due to the debtor's refusal to pay, their inability to do so, or the inability to locate their residence, or if they cease to comply with the order or judgment after initially starting to do so. A report produced by the judicial officer determines non-compliance, whether partial or full.

The above passage suggests that we differentiate between creditor-related conditions and debtor-related ones.

First section: Conditions Related to the Debtor of Alimony

The following conditions describe non-fulfillment of the alimony judgment, whether partial or total:

- The debtor will not pay the alimony.
- The debtor is cannot pay the alimony.
- The debtor's home is unknown.
- The debtor stops executing the judgment or order after initiating it.

Proving non-fulfillment, either partially or completely, by means of an official report compiled by a judicial officer is

mandatory. The debtor is still required to pay alimony even though the alimony fund's financial entitlements are being paid.¹

Section Two: Conditions Related to the Creditor of Alimony

The creditor has to fit the categories listed in Law No. 24-01 for the state to replace the debtor in settling the financial claims. These cover the divorced woman and the dependent child or children prior to the divorce judgment being rendered. This law excludes families suffering neglect, widows, orphaned children, wives of missing persons, their children, children whose customary status has not been established by this legislation, and others.² Although these groups might require more government assistance, their circumstances can be likened to that of a father unable to assist his dependent child.

It is also a situation that the dependent child lacks assets qualifying them from their father's alimony, whether from inheritance, gifts, or even by working income that qualifies them self-sufficient.

THE SECOND TOPIC

Procedures for Benefiting from the Alimony Fund.

Titled "Procedures for Benefiting from Financial Entitlements," Law No. 24-01, Chapter Three addresses Articles 06 to 18, from application submission to case processing and financial entitlement disbursement .

First Requirement:

Submission of the Application for Financial Entitlements.

According to Article 06 of the above-mentioned law, a file must accompany the application submitted to the appropriate judge in either paper or electronic form.

1 Article 04 of Law No. 24-01.

2 Iqroufa zoubida, *Legal Mechanisms for Protecting the Rights of Women and Children: Law No. 24-01 Concerning Special Provisions for Obtaining Alimony as a Model*, Academic Journal of Legal Research, Vol. 15, No. 2, 2024, p. 312.

First section: Competent Judge.

As part of the digitalization of the justice sector, the file is presented to the court either in paper form or electronically by scanning all the documents pertinent to the case onto an electronic medium. With territorial jurisdiction, the maintenance creditor or their legal representative submits the file to the judge together with a petition directed to the head of the Family Affairs Division¹. Handling maintenance conflicts under paragraph 3 of the same article, the Family Affairs Division's specialized jurisdiction is defined in Article 423 of Law 08-09, which includes the Civil and Administrative Procedures Code².

Moreover, Article 426 of the Civil and Administrative Procedures Code defines the Family Affairs Division's territorial authority. The same article's paragraph 5 declares that the court has territorial authority in maintenance issues at the creditor's place of residence.

This affirms the rule stated in paragraph 2 of Article 40 of the Administrative Procedure Code, which grants territorial jurisdiction for alimony claims to the court in the area of the creditor's residence.

The head of the Family Affairs Division of the court situated in the area of the creditor's (the child and the divorced woman) residence is therefore the qualified judge before whom the request for financial entitlements from the maintenance fund is filed.

Article 06 of Law No. 24-01 last paragraph specifies that every court has a special office run by a court clerk in charge of

1 Boumala Nazira, *Protection of the Custodial Parent's Right to Alimony in Light of Law No. 24-01*, Algerian Journal of Law and Justice, Vol. 10, No. 1, 2024, p. 184.

2 Article 423 of the Civil and Administrative Procedure Code: "The Family Affairs Section shall, in particular, consider the following lawsuits: ... Alimony, custody, and visitation rights...".

handling requests for financial entitlements, including related files, updating them, and tracking their progress.

Section Two: The File Accompanying the Request

The maintenance fund's financial entitlements are requested in the form of a petition submitted to the head of the Family Affairs Division together with a set of papers listed under Article 06 of the above-mentioned Law No. 24-01, which comprise:

- A copy of the divorce decision, either on paper or electronically, depending on how the file is filed, or, in the event that the divorce decision omits such clauses, a copy of the order or judgment awarding maintenance and custody.
- A judicial officer's official report verifying partial or total non-compliance with the order or court decision defining the maintenance amount.

• Postal or Bank Check for the Beneficiary:

If the beneficiary chooses to receive the payment through postal or bank accounts, a check may be issued, endorsed to the beneficiary, who may be the custodian if the alimony is for the child or the divorced woman if the alimony is related to post-divorce matters.

Furthermore, any documentation that can be used to identify the alimony debtor and creditor such as identification cards, family cards, or residence certificates may be needed.

According to Article 21 of Law 24-01, anyone who makes a false declaration or statement to obtain financial benefits faces penalties under the relevant laws.

Law No. 24-01 requires the file to be regularly updated during the first quarter of each year to prevent changes in circumstances and legal statuses that could make alimony unearned. This guarantees that any new developments in the life of the alimony beneficiary the child under custody in this instance or the family status are appropriately reflected.

The party responsible for submitting the file periodically is only the custodial parent's file, as their entitlement to alimony may continue for years, while the divorced woman's alimony amounts are determined in the judgment for only a few months, which she receives directly, potentially as a lump sum, without the need to renew the file each year. Whether physically or electronically, Article 12 of the aforementioned law requires the custodian to update and renew the documents in the file with the Secretariat of the Judicial Council.

Even if this happens outside the specified time frame—the first quarter of each year—the custodian may also update any required papers and send them to the Secretariat of the Judicial Council.

The Secretary-General of the Judicial Council has to inform the appropriate judge in writing if the beneficiary either fails to renew the file or a change in their circumstances is shown. Before deciding on the financial entitlements, the judge will direct a social investigation.

Second Requirement:

File Processing and Disbursement of Financial Entitlements.

The judge starts handling the case after the application and necessary papers have been filed; then comes the phase in which the beneficiary obtains the financial entitlements.

First section: File Processing and Decision.

Immediately following submission, the competent judge informs the Public Prosecutor's Office of the request to start criminal proceedings automatically against the alimony debtor for the offense of non-payment of alimony, punishable under Article 331 of the Penal Code¹, with the possibility of conducting criminal mediation under Algerian procedural law.

1 Article 331 of the amended Penal Code stipulates: "Anyone who fails to provide the amounts ordered by the court for the support of his family and for the full alimony due to his spouse, ancestors, or descendants, for a period exceeding two months, despite a court order requiring him to pay

Article 07 of Law No. 21-01 states that after processing the file, the competent judge rules on the request via an executive order not subject to appeal¹ within a maximum of five (5) days from the date the request was submitted.

Should the legal requirements be satisfied, the judge signs an executive order allowing the beneficiary access to financial entitlements. The judge, therefore, orders the request denied should the requirements not be satisfied or the file lacking. The applicant might fix any flaws in the file in this situation².

The provisional order must contain a set of details specified in Article 7 of Law No. 24-01 in the event that the alimony creditor's entitlement to financial entitlements from the fund is approved. These details are:

- The identity of the alimony creditor.
- The number of custodial children, their names, and ages.
- The alimony amount for each alimony creditor.
- Information related to the alimony debtor.
- Specification of the type of alimony.
- Establishing the beginning date to take advantage of the financial entitlements.

The court registry then informs both the alimony creditor and debtor as well as the Secretary-General of the Judicial Council of this order within two (2) days from the date of

alimony to them, shall be punished with imprisonment from six (6) months to three (3) years and a fine of 50,000 to 300,000 dinars."

Ordinance No. 66-156, dated 08/06/1966, concerning the amended and supplemented Penal Code, Official Gazette, No. 49,. 11/06/1966

1 Article 19 of Law No. 24-01 concerning special provisions for obtaining alimony.

2 Boumala Nazira, the previous reference., p. 186.

issuance. The Secretary-General of the Judicial Council shall get a copy of the whole file filed with the order attached and sent.

Section Two: Disbursement of Financial Entitlements from the Alimony Fund

Article 08 of Law No. 24-01 states that once the Secretary-General of the Judicial Council is notified of the order approving the request for financial entitlements, they are to disburse the entitlements to the alimony creditor by any means ensuring they receive it, especially via bank or postal transfer, within a maximum of twenty-five (25) days from the date of notification. Managed by the Minister of Justice, Keeper of the Seals, the alimony fund set up for this purpose pays the financial entitlements via the Secretary-Generals of the Judicial Councils¹.

Within a maximum of ten (10) days from the date of receipt, the regional treasury officer will disburse the financial entitlements based on a payment order issued by the Secretary-General of the Judicial Council. Until an order is issued to suspend or change them, the beneficiary will continue to receive the financial entitlements on a monthly basis.

Should alimony be changed, the judge will write a new order that must be sent to the Secretary-General of the Judicial Council following Article 7 of Law No. 24-01² defined procedures and deadlines. Furthermore, as paragraph 2 of Article 21 of Law No. 24-01 indicates, anyone who gets financial entitlements without legitimate entitlement must return them.

From the above-mentioned processes, one could say it is entirely judicial from the start to the finish. The competent judge, court registrar, and Secretary-General of the Judicial Council work together to gather financial entitlements. The

1 Article 14 of Law No. 24-01.

2 Article 11 of Law No. 24-01.

Minister of Justice, Keeper of the Seals, also oversees the fund's management¹.

Given the collapse of the prior phase, it was unavoidable to give the Ministry of Justice control over the alimony fund's management and administration. The Ministry has the overall power in issuing judicial decisions and enough expertise to carry them out effectively², therefore conserving time and lessening the work expected of the alimony creditor.

Article 17 gives the Treasury Secretary the authority to use the inspection powers set forth in the relevant law to gather the financial entitlements mentioned in this statute. The Treasury Secretary may use mandatory collection methods if required. Every three months, the Treasury Secretary reports to the Secretary-General of the Judicial Council on the fund's status, including the paid financial entitlements, collected entitlements, and the list of debtors who have refused to pay their dues. In line with Article 8 of Law No. 24-01, the Secretary-General of the Judicial Council then informs the Public Prosecutor of this list for appropriate action under the relevant law.

Conclusion:

The following conclusions were drawn after an examination and critique of the legal texts of Law No. 24-01 regarding financial entitlements benefiting from the rules:

- The financial entitlements from the alimony fund are a means the state uses to safeguard the family by offering financial assistance to dependent children and divorced

1 Hilali Masoud, *An Analysis of Law No. 24-01 Concerning Special Provisions for Obtaining Alimony in Algeria*, Journal of Research in Academic Studies, Vol. 11, No. 2, 2024, p. 992.

2 Mansouri Mounia and Ayachi Jamal, *The Legislative Evolution of the Alimony Fund in Algeria*, Journal of Legal Studies, Vol. 11, No. 1, 2025, p. 81.

women in situations where the debtor declines to pay the alimony sums.

- The legislator has established criteria for obtaining financial entitlements; most notably, he or she has decided which categories of beneficiaries namely, the dependent child and the divorced woman will qualify.
- Though the alimony duty stays, the right to benefit from financial entitlements is lost if the custody is lost, even Law No. 24-01 links the financial entitlements with alimony, which denies many categories from state financial support.
- The competent judge issues an administrative order approving the request for financial entitlements if the case file conditions are satisfied. The judge, therefore, orders the request denied should the circumstances not be satisfied or the file lacking.
- Should the debtor's refusal or inability to pay render the full or partial execution of the alimony order or judgment impossible, the alimony fund pays the financial entitlements.
- The new legislation deals with a situation the prior law ignored: the debtor's compliance with the maintenance order or ruling ceases after it has already started. It also specifies the requirement to update the file in the first quarter of every year.
- The legislator's choice to give the Ministry of Justice control over the maintenance fund is praiseworthy since it streamlines the procedure for file review and decision issuance for the distribution of financial entitlements without delay.

● **Recommendations:**

Many legal academics have lauded Law No. 24-01, but it has its flaws. The following recommendations could help to close these holes:

- Article 06 specifies the papers to accompany the application for financial entitlements including any paper naming the creditor and the debtor. The legislator should have clearly specified these papers.
- The state should increase the categories qualifying to gain from the maintenance fund to include orphans, widows, the elderly, the wife of a missing person, and their children since it is in charge of maintaining divorced women and children under custody. The state could also increase the fund's resources by charging civil status contracts for its advantage and allowing donation contracts access.
- Critics of the legislator's method point out that the end of custody is a qualifying event that cancels the right to profit from the maintenance fund. Thus, it is proposed that the right to benefit be seen as ending with the conclusion of childhood, namely when the kid turns 18 years old.
- Hasten the release of the promised regulation outlined in Law No. 24-01's Article 24.

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