The Legal Framework for Real Estate Seizure in Algerian Law between Legal Text and Practical Application

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Received: 17/07/2025 *Accepted: 20/10/2025* *Published:.2510/2025*

Abstract:

Real estate seizure constitutes a key judicial enforcement mechanism within Algerian law, governed by a structured legal framework established under the Code of Civil and Administrative Procedures. It is strictly conditioned by procedural safeguards aimed at balancing creditors' rights with the protection of debtors' property. These include the requirement of an enforceable title, formal debtor notification, seizure registration at the (Conservation Foncière), and public auction under judicial supervision. Despite this clear normative framework, practical implementation faces persistent challenges such as administrative delays, inefficiencies in property registration, procedural formalism, and limited protection of vulnerable debtors, especially regarding primary residences. These issues reflect broader tensions between legal texts and enforcement realities. Addressing them requires institutional reforms, including procedural simplification, modernization of real estate registries, and introduction of alternative enforcement mechanisms. By highlighting both legal foundations and operational difficulties, the study underscores the need for a more balanced and effective enforcement system in Algeria.

Keywords: Real Estate Seizure, Algerian Enforcement Law, Judicial Procedures, Debtor and Creditor Rights, Property Registration.

1. INTRODUCTION

Real estate seizure stands as one of the most significant mechanisms of judicial enforcement within Algerian law, particularly in contexts where creditors seek to recover debts through compulsory sale of immovable property. Given the centrality of real estate in personal wealth and commercial transactions, the legal and procedural framework governing its seizure carries substantial implications not only for individual

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rights but also for economic stability and legal security in Algeria. Codified primarily in Articles 721 to 774 of the Algerian Code of Civil and Administrative Procedures, real estate seizure reflects a structured attempt to balance the creditor's right to debt recovery with the debtor's constitutional right to property. Even with this codification, practical experience in Algerian courts reveals persistent procedural difficulties, administrative delays, and tensions between the formal legal texts and their real application. These observations raise critical legal questions regarding the efficiency and fairness of the current system. The central research problem addressed in this article may thus be formulated as follows:

To what extent does the Algerian legal framework governing real estate seizure achieve an effective balance between protecting creditors' rights and safeguarding debtors' property rights, considering both legal provisions and actual enforcement practices?

Based on this main question, two core hypotheses can be proposed:

First, while Algerian law provides a theoretically coherent framework for real estate seizure, its practical application is hindered by procedural formalism and administrative inefficiencies that disproportionately affect both creditors and debtors.

Second, that without specific legislative reforms and institutional modernization, real estate seizure risks becoming a mechanism that favors creditor interests at the expense of debtor protection, contrary to the broader constitutional and social objectives of Algerian law.

To explore these hypotheses, the article adopts a comparative legal analysis combined with an examination of Algerian judicial practice, relying on both statutory interpretation and field observations from Algerian courts. The discussion is structured around two main sections: the first addresses the legal framework of real estate seizure under Algerian law, while the second critically examines the procedural and administrative challenges faced in its practical implementation, concluding with proposed reforms aimed at enhancing the balance between creditor enforcement and debtor protection

2. The Legal Framework for Real Estate Seizure in Algerian Legislation

The legal framework governing real estate seizure in Algerian law is characterized by a detailed and codified system aimed at ensuring both creditor rights and debtor protections. This framework is primarily outlined in the Algerian Code of Civil and Administrative Procedures (Articles 721–774)[1], which sets forth the substantive conditions and procedural steps required for enforcing real estate seizure. Before addressing its practical challenges, it is necessary to first clarify the key legal rules that structure this mechanism.

[1] Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of February 25, 2008, Articles 721–774

2.1 Definition of real estate seizure and its legal conditions

In Algerian law, real estate seizure constitutes a distinctive judicial enforcement mechanism through which creditors may recover their claims by subjecting a debtor's immovable property to compulsory sale. This procedure, far from being an ordinary enforcement measure, is characterized by its exceptional nature, as it affects property deemed essential for both personal and economic stability. Algerian legal doctrine and legislation, primarily embodied in the Code of Civil and Administrative Procedures, strictly delineate the conditions under which such seizure can take place, reflecting a balance between the rights of creditors and the protection of property ownership[1].

Real estate seizure is defined as a judicially sanctioned process whereby immovable assets belonging to a debtor are temporarily placed under the authority of the court and eventually auctioned publicly to satisfy outstanding debts. Specific articles within the CCAP govern this process, notably Articles 721 through 774[2], which collectively establish both the substantive and procedural frameworks. It is crucial to emphasize that Algerian law stipulates that this enforcement method is subordinated to the principle of subsidiarity: creditors may not resort to seizing real estate unless they can demonstrate the insufficiency or complete absence of movable assets belonging to the debtor. This condition is not merely procedural but reflects a deeper policy consideration within Algerian law, seeking to limit the impact of enforcement on the debtor's fundamental property rights while ensuring that creditors have recourse to effective remedies when other options are exhausted. As well, the types of property eligible for seizure are clearly defined by Algerian legal texts. The law recognizes as seizable not only natural immovable such as land and buildings but also immovable by destination according to the provisions of the Algerian Civil Code[3]. These include items that, while movable in their material nature, are considered immovable because they are permanently affixed to real property for economic or functional purposes. Furthermore, real estate seizure may extend to certain real property rights, such as usufruct, mortgage rights, or preferential claims attached to immovable assets. The precise delimitation of seizable property is fundamental to ensuring legal certainty and protecting third parties who may hold concurrent rights over the same property[4].

The process of real estate seizure is inherently formalistic. Algerian law imposes several procedural safeguards that must be respected to validate the enforcement measure. Initially, the creditor must hold an enforceable title, which generally takes the

[1] Kourich Aissa, Real Estate Reservation in Algerian Legislation, Master's Thesis, University of sekikda, Faculty of Law, 2023, p 11

[2] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 721–774

[3] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 721–774; and Algerian Civil Code, Ordinance No. 75-58 of 26 September 1975, Articles 683–689, concerning immovable property by nature and by destination

[4] See Algerian Civil Code, Ordinance No. 75-58 of 26 September 1975, Articles 683–689 and Articles 882–950,

form of a court judgment or another document carrying executive force[1]. This title must specifically establish the debtor's obligation to pay a determined sum of money. Following this, the creditor is required to serve the debtor with a formal demand for payment through judicial channels. If the debtor fails to comply within the prescribed period, the creditor may petition the competent court to authorize the seizure. The petition must be accompanied by all necessary documentation, including detailed descriptions of the property, cadastral references, ownership certificates, and evidence establishing the insufficiency of movable assets. Only upon judicial review and approval is the seizure order granted, thus officially initiating the process[2].

Beyond its general definition, real estate seizure under Algerian law is strictly conditioned by a set of cumulative legal requirements aimed at ensuring both the seriousness of the creditor's claim and the protection of the debtor's property rights. These conditions are elaborated through a combination of substantive and procedural rules, primarily contained in the Algerian Code of Civil and Administrative Procedures[3]. First and foremost, the creditor must possess a valid and enforceable title, a legal document recognized by the judiciary as proof of a legitimate and liquidated debt. This title may take various forms, including a final court judgment, a notarial deed, or any other official instrument that establishes a monetary obligation. Without such a title, no judicial authority is permitted to authorize the seizure, as this would violate the principles of legal security and due process. And equally fundamental is the obligation to demonstrate the insufficiency or nonexistence of the debtor's movable assets[4]. Algerian law explicitly prohibits creditors from directly targeting immovable property as a first resort. Instead, movable assets, which are generally less essential to the debtor's personal and economic stability, must be considered and exhausted first. The creditor is required to provide documentary evidence, usually in the form of an official report drawn up by a judicial officer, confirming that the debtor either possesses no movable property or that such property is inadequate to cover the amount owed. This procedural step reflects a proportionality principle embedded within Algerian enforcement law, designed to protect the debtor from unnecessarily harsh measures while preserving creditors' rights[5].

Another core condition relates to the nature of the property subject to seizure. Under Algerian legal doctrine, not all immovable property can be seized indiscriminately. The law strictly limits seizure to properties that are either classified as

[1] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 723–725

[2] see Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 723–726, concerning the petition for seizure authorization, debtor notification, and required supporting documents

[3] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 721–774; see also Ali ali selaiman, The necessity of re-evaluating the Algerian Civil Code, University Publications Office, Algeria,1992

[4] Bedaoui Abdelaziz, Real estate registration in Algerian law, a thesis for obtaining a master's degree, specializing in management and finance, Faculty of Law, Ben Youssef Ben Khadda University, Algeria, year 2007/2008. p52

[5] Ibidem

immovable by nature, such as land and permanent buildings, or as immovable by destination, meaning movable items permanently affixed to immovable property and legally assimilated to it[1]. Furthermore, seizure may also extend to specific real rights attached to immovable property, including usufruct rights, mortgage securities, and privileged claims established through legal encumbrances. The recognition of these categories is not merely theoretical but plays a crucial role in protecting third-party rights, particularly in cases where multiple creditors may have competing interests over the same asset[2]. Also, procedurally, Algerian law requires that the creditor seeking seizure must submit a formal request to the president of the competent court in whose jurisdiction the property is located. This request, known as a petition for seizure order, must include several mandatory elements: the full identity and legal address of both creditor and debtor; a precise description of the property targeted for seizure, referencing cadastral records and ownership certificates; proof of the enforceable title; and documentation demonstrating the insufficiency of movable assets. The court's role is not merely to register these documents but to conduct a thorough legal review, ensuring compliance with all substantive and procedural conditions. Only after this judicial validation can the seizure order be issued, triggering the subsequent steps of notification, registration, and auction proceedings[3]. An add procedural safeguard is embodied in the requirement to register the seizure with the relevant real estate registry, known in Algeria as the Conservation Foncière (The Real Estate Registry). The registration serves not only as public notice but also as the legal act that renders the seizure effective against third parties. From the date of registration, the debtor is prohibited from disposing of the seized property, and all subsequent transactions regarding the property become null and void as far as the creditor's rights are concerned[4].

2.2 Procedures for real estate seizure under Algerian law

The enforcement of real estate seizure in Algerian law is governed by a strict procedural framework established under the Algerian Code of Civil and Administrative Procedures (CCAP), specifically in Articles 721 to 774[5]. These provisions detail the formal steps required to initiate, register, and execute real estate seizures, ensuring legal clarity and safeguarding the rights of all parties involved. The procedure begins with the submission of a formal request for a seizure order, filed by the creditor or their legal representative, before the president of the court within whose jurisdiction the property is

[1] See Algerian Civil Code, Ordinance No. 75-58 of 26 September 1975, Articles 683–689, regarding immovable property by nature and by destination; and Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 721–774

[2] Belhadj Elarbi, The general theory of obligation in Algerian civil law, legal acts, contracts, and unilateral will,part one, fifth edition, Office of University Publications, Algeria, year 2007p74

[3] Ibidem

[4] For an overview of real estate registration in Algeria, see Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 726–728; see also Algerian Civil Code, Ordinance No. 75-58 of 26 September 1975, Articles 793–803, related to property registration

[5] See previously cited: Algerian Code of Civil and Administrative Procedures, Articles 721–774.

located. According to Article 723[1], this request must be accompanied by an enforceable title, an official report confirming the insufficiency or absence of movable assets (محضر عدم وجود المنقولات أو عدم كفايتها), a certified copy of the debtor's property title, and a real estate certificate proving that the debtor has not transferred ownership of the property in question[2]. And once these documents are submitted, the president of the court reviews the petition and, if all legal requirements are met, issues a seizure order within a maximum of eight (08) days, as expressly provided by Article 725[3]. Upon issuance of the order, the judicial officer must immediately notify the debtor through formal service (تبليغ رسمي), explicitly informing them that unless the debt is settled within thirty (30) days, the property shall be definitively seized and sold at public auction. This notification must also be addressed to any third parties holding real rights over the property, such as mortgage creditors or privileged creditors, by Article 724. Furthermore, the seizure order must be filed without delay with the Real Estate Registry Office (Conservation Foncière), where it is recorded officially. Article 726 stipulates that the real estate registrar must record the date and exact time of deposit, listing all creditors involved and the court issuing the order, under penalty of disciplinary sanctions in the event of omission[4].

Following registration, the debtor's property is considered legally seized. Article 728 clarifies that the registration creates a legal effect from the date of inscription, preventing any further transactions regarding the property. The next phase involves preparing the conditions for sale through a judicially supervised public auction[5]. According to Article 737, if the debtor does not pay the debt within thirty (30) days from notification, the bailiff is responsible for drafting a detailed list of sale conditions, including a full description of the property, the names and domiciles of both creditor and debtor, the enforceable title, the amount of the debt, and all relevant procedural dates. This list, known as Liste des conditions de vente, is deposited at the court registry and is subject to public scrutiny[6]. The court sets two subsequent hearings: one for objections from interested parties (جلسة الإعتراضات) and another for the auction itself, as stipulated in Articles 748 and 751[7]. Throughout this process, Algerian law requires a series of public notices to guarantee transparency and ensure that potential buyers are properly informed. Article 749 mandates that auction announcements be published in at least one national newspaper, displayed at the property location, posted at the courthouse, the tax office, the municipal authority, and other public spaces likely to attract bidders. The bailiff must also communicate the auction details to all interested

[1] See supra, Algerian Code of Civil and Administrative Procedures, Articles 723 and 725
[2]Salhi, Farid, and Slimane Bouzekri. "Civil legal protection of public national property in Algeria." International Journal of Legal and Policy Research 9.1 (2025): pp 42-43
[3] Idem, p46
[4] Idem, p47
[5] Ibidem
[6] See supra, Algerian Code of Civil and Administrative Procedures, Article 737
[7] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 748 and 751

parties, including mortgage holders and co-owners, in conformity with Articles 740 and 741[1]. Failure to comply with these notification requirements entitles affected parties to request the annulment of auction procedures before the court, as explicitly recognized in Article 751, paragraph 2[2]. In the end the final stage of real estate seizure involves the public auction itself, overseen by the court president or a designated judge. During the auction session, the property is sold to the highest bidder according to the conditions fixed beforehand, as per Article 752. If no acceptable bids are made, the sale may be adjourned and rescheduled, with the property being offered at a reduced base price, following the provisions of Articles 754 and 755[3]. Upon conclusion of the auction, the court issues a judicial report known as the Jugement d'adjudication (حكم برسو المزاد), formalizing the sale. Although this judgment is not subject to ordinary appeals according to prevailing jurisprudence and Article 763, parties may still initiate a separate annulment action if substantial procedural irregularities occurred. At one time the auction judgment is issued, the purchaser must fulfill payment obligations within specific deadlines defined by Article 757: a minimum deposit equivalent to one-fifth of the price is required immediately, with the balance due within eight (08) days[4]. Failure to comply results in re-auctioning the property, with the defaulting purchaser liable for any difference in sale price. And, the new owner must register the adjudication judgment at the Real Estate Registry, completing the transfer of ownership and ensuring the property is cleared of all prior encumbrances, as prescribed in Articles 763 and 764[5]

3. Practical Issues in Implementing Real Estate Seizure in Algeria

The enforcement of property related judicial decisions in Algeria faces numerous real challenges, despite the existence of detailed legal texts. Between formal legal requirements and actual court practices, a noticeable gap emerges, particularly regarding procedures involving immovable assets. This section explores the core procedural and administrative difficulties that arise when applying the legal rules governing compulsory seizure of real estate, shedding light on the main points of tension between legislation and practice

3.1 Procedural and Administrative Difficulties in Implementing Real Estate Seizure

[1] See supra, Algerian Code of Civil and Administrative Procedures, Articles 740 and 741.

[2] see Article 751, paragraph 2 "The sale must be announced by all appropriate means, and any interested party may bring an action for annulment of the sale proceedings if such announcement is not made in accordance with the forms and deadlines prescribed by law"

[3] See supra, Algerian Code of Civil and Administrative Procedures, Articles 752, 754, and 755

[4] See Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 757 and 763

Article 757 " The successful bidder must pay one-fifth (1/5) of the auction price in cash at the time the auction is concluded, and the remaining balance within eight (8) days. Failing that, the property shall be resold at their expense, and the defaulting bidder shall be liable for any difference in price without the right to recover the initial deposit."

Article 763 "The adjudication judgment is not subject to any ordinary appeal. However, any interested party may bring an annulment action if fraud, deception, or a substantial procedural error has occurred."

[5] Ibidem

While Algerian law provides a detailed procedural framework for real estate seizure as outlined in Articles 721 to 774 of the Code of Civil and Administrative Procedures, the practical implementation of real estate seizure procedures in Algeria is marked by numerous procedural and administrative challenges[1]. These difficulties, far from being theoretical, reflect structural deficiencies in both judicial practice and the organization of administrative institutions, and while the legislator sought to streamline enforcement measures through detailed provisions, several points of friction persist, undermining both the speed and effectiveness of real estate seizure as a judicial tool. And one of the primary procedural difficulties arises at the very outset of the process, notably during the stage of obtaining a judicial seizure order. According to Article 723, the creditor must submit a formal petition supported by an enforceable title, proof of the insufficiency or absence of the debtor's movable assets, and a full description of the immovable property concerned[2]. In practice, collecting and verifying all these elements often proves to be a source of delay. Judicial officers tasked with drafting the official report on the non-existence of movable assets frequently face difficulties in accessing the debtor's financial situation or locating their movable property. This investigative phase may require additional judicial authorization and recourse to inquiries that extend the timeframe well beyond the eight (08) days prescribed by Article 725 for the court's decision[3]. As well, Algerian courts, particularly those in regions with high caseloads, often struggle to adhere strictly to the procedural deadlines due to staffing shortages, administrative bottlenecks, and reliance on paper-based filing systems. Another layer of difficulty is associated with the registration of the seizure order at the Conservation Foncière, as required by Articles 726 to 728. This phase, although presented as a simple formality in the legal texts, is often burdened by structural inefficiencies within the real estate registry offices[4]. The absence of a fully digitalized national property register results in delays in registering seizure orders, which sometimes extend several weeks or months beyond the legal deadline. Such delays not only compromise the creditor's ability to secure their claim but also expose the property to legal uncertainty, as third party transactions may occur before the seizure is formally registered. This situation undermines the legal principle of opposability to third parties (*مبدأ الاحتجاج في مواجهة الغير*) as provided for under Algerian property law. Also, the preparation and deposit of the List of Sale Conditions, governed by Article 737[5], constitute yet another procedural challenge. This document must contain comprehensive details concerning the seized property, including its cadastral description, encumbrances, and exact location. But, bailiffs often face significant obstacles in accessing complete and up to date cadastral information, especially regarding properties situated in areas where land surveying and registration are incomplete or where property boundaries are contested. The obligation

[1] Salhi, Farid, and Slimane Bouzekri,op cit , p 51
[2] Idem, p52
[3] Belhadj Elarbi, op cit , p 79
[4] Ibidem ,pp 80-81
[5] See supra, Algerian Code of Civil and Administrative Procedures, Article 737

to include highly specific information such as the regional location, building components, and legal situation of the property places a heavy administrative burden on both bailiffs and creditors, particularly when dealing with complex real estate holdings or mixed-ownership properties (*العقارات المشاعة*)[1].

Public notice requirements, as outlined in Articles 740 and 749[2], further add to the procedural complexity. Algerian law mandates the publication of auction announcements in national newspapers, on court notice boards, at municipal offices, tax administrations, and directly on the seized property itself. While this multiplicity of publication venues is designed to enhance transparency and attract potential bidders, in practice, it creates logistical difficulties and increases enforcement costs for the creditor[3]. Also, these notices must adhere to strict content and formatting requirements, and any omission or error can serve as grounds for annulment of the sale as per Article 751. The process is further complicated by the need to notify all interested parties, including mortgagees, co-owners, and guarantors, each of whom must be served with formal notice within legally defined timeframes. Failure to comply with any of these procedural steps exposes the enforcement procedure to nullity actions and complicates judicial oversight. Further, Algerian enforcement practice faces substantial challenges during the actual conduct of public auctions. Articles 752 to 755 stipulate that auctions must be held under judicial supervision, with minimum requirements regarding bidder numbers, auction formats, and price reductions in cases of repeated failure[4]. But, in many instances, particularly in smaller towns or less economically active regions, auctions attract few if any bidders. The legal requirement to repeat auction announcements and reschedule sales in cases of insufficient offers places additional strain on the judicial apparatus and increases procedural costs for creditors. Courts are often required to hold multiple sessions for the same property, each involving the drafting of new sale conditions, fresh publications, and renewed notifications to all stakeholders. This repetition results not only in administrative overload but also in creditor frustration, as the enforcement process loses both effectiveness and economic efficiency[5]. A further institutional difficulty arises from the fragmentation of administrative responsibilities among different public bodies. And while the CCAP prescribes clear rules regarding notifications to tax authorities and mortgage creditors (Article 724), in practice, coordination between bailiffs, court registries, tax offices, and real estate registries is far from seamless. Notifications are often delayed, misplaced, or incomplete, resulting in parallel procedures or post auction challenges initiated by

[1] Belhadj Elarbi, op cit , p 81 and see also supra, Algerian Code of Civil and Administrative Procedures, Article 737

[2] Article 740 "The List of Sale Conditions must be served to registered creditors and to holders of other real rights attached to the property"
Article 749 "The auction sale must be announced by posting notices in locations specified by law and publishing it in at least one national daily newspaper, respecting a period of eight (8) days before the auction session"

[3] Othmani Abderrahmane. "Real Estate Seizure under Algerian Law." Journal of Legal and Political Research, Vol. 03, No. 16, University of Dr. Moulay Tahar Saida, Algeria, 2023, p162. (Peer-reviewed International Journal)

[4] Idem, p 163

[5] Ibidem

overlooked interested parties. The absence of a unified enforcement management system exacerbates these difficulties, especially in complex cases involving multiple creditors or mixed use properties[1].

3.2 The Impact of Real Estate Seizure on the Rights of Debtors and Creditors

Building upon the procedural and administrative challenges outlined previously, it becomes evident that real estate seizure under Algerian law produces tangible legal and practical effects on both creditors and debtors. These effects are not limited to procedural delays or institutional shortcomings; they extend to directly shaping the balance of rights and obligations between the two parties throughout the enforcement process. For creditors, real estate seizure represents both an essential and paradoxically burdensome mechanism[2]. While it grants them access to the debtor's immovable assets as a form of guarantee, the length and complexity of the procedure often diminish its actual value as an enforcement tool. Many creditors, particularly banks and financial institutions, find themselves engaging in protracted litigation or repeated auction attempts before recovering even a portion of the sums owed. Furthermore, under Articles 757 and 763[3], creditors must bear significant procedural costs, including bailiff fees, publication expenses, and auction organization charges, which are deducted from the final auction proceeds. These financial burdens affect the creditor's net recovery and may discourage reliance on judicial enforcement mechanisms altogether, particularly for lower value claims. And for debtors, the consequences of real estate seizure are far more severe and immediate. Once the seizure order is registered at the Conservation Foncière as per Articles 726–728[4], the debtor's ability to dispose of their property is effectively frozen. This legal immobilization impacts not only their financial autonomy but also their capacity to negotiate settlements or restructure their debts. Additionally, the thirty (30) day period granted for voluntary payment under Article 724, while theoretically protective, often proves insufficient in practice, especially in cases involving substantial debt amounts[5].

Beyond this initial stage, the debtor faces the ultimate risk of property loss through judicial auction. Although Algerian law provides for objections and procedural safeguards under Article 748[6], the debtor's ability to invoke them is frequently undermined by a lack of legal representation or limited understanding of complex judicial processes. And once the (Jugement d'adjudication) is issued, the debtor's ownership rights are extinguished with very few possibilities for appeal, except in cases of gross procedural violation. It is also important to highlight that real estate seizure can produce broader economic and social consequences for debtors. In a legal context where

[1] Othmani Abderrahmane, op cit , p163
[2] Idem, p164
[3] Idem, p165
[4] Idem, p166
[5] Ibidem
[6] Ibidem

immovable property often represents a family's primary or sole asset, losing such property may lead to housing insecurity and long term financial instability. This dimension, while not explicitly addressed within the CCAP, is increasingly discussed in Algerian legal doctrine as a factor warranting policy reconsideration. Therefore, while Algerian law establishes real estate seizure as a theoretically balanced mechanism protecting both creditors' rights to recovery and debtors' rights to property, the actual impact observed in practice leans toward favoring creditor interests, often at considerable cost to debtors[1]. This imbalance underscores the need for procedural reforms aimed at ensuring not only faster and more efficient enforcement but also enhanced legal protection for vulnerable debtors, whether through extended grace periods, mandatory mediation stages, or alternative enforcement measures

3.3- Judicial and Policy Considerations

The foregoing analysis of the impact of real estate seizure on the rights of both debtors and creditors highlights critical tensions within the Algerian legal framework. While the legislator has endeavored to strike a balance between enforcement efficiency and property protection, the practical realities expose clear areas where judicial and policy reforms appear not only desirable but necessary. From a judicial perspective, one of the most immediate considerations concerns the adequacy of the thirty (30) day grace period provided to debtors under Article 724[2]. While sufficient in cases involving commercial debts or institutional creditors, this period proves markedly insufficient in situations where the seized property represents the debtor's primary or only residence. Comparative legal systems, such as French and Moroccan enforcement law, increasingly recognize differentiated treatment for residential properties, introducing longer grace periods or additional procedural steps before allowing auction. Algerian law could similarly benefit from a more flexible approach, whereby the court is empowered to extend the payment period based on the nature of the property and the social status of the debtor[3].

What's more, the Algerian legal system still relies on rigid procedural formalities that do not account for alternative dispute resolution mechanisms within enforcement proceedings. Introducing compulsory judicial mediation or structured payment plans before finalizing real estate seizure could serve as a valuable tool to alleviate the harshness of forced sales, particularly for individual debtors with limited resources. Such mechanisms would not necessarily undermine creditor rights, as they could be limited to cases where debt amounts fall below a legally defined threshold or where the debtor provides credible guarantees of future payment. This would reflect a more nuanced application of enforcement law, blending legal rigor with socio economic

[1] Othmani Abderrahmane, op cit , p167
[2] See supra Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 723–725
[3] Ibidem

considerations[1].

From an administrative standpoint, one of the structural weaknesses most frequently cited is the inefficiency and opacity of real estate registries. Despite the formal role assigned to the Conservation Foncière under Articles 726–728, the lack of integrated and digitalized property records remains a major impediment. Reforming registry management through digital platforms would not only accelerate seizure registration and reduce administrative costs but also enhance legal certainty for both creditors and debtors by preventing conflicting claims and unauthorized property transfers during the enforcement process. Algeria could draw inspiration from jurisdictions where e-registration systems and centralized enforcement databases have improved procedural efficiency and public trust[2].

Another dimension warranting attention is the need for clearer legal provisions addressing social and housing rights within the context of real estate seizure. While Algerian constitutional law acknowledges the property right, it does not yet integrate specific protections related to housing rights in enforcement procedures. International legal standards, particularly those reflected in United Nations and regional human rights instruments, increasingly call for proportionality and social considerations in enforcement actions that may lead to the loss of housing. Introducing legal provisions that explicitly prevent the seizure and sale of a debtor's primary residence, except under exceptional circumstances, would align Algerian enforcement law with these evolving standards and contribute to broader social stability[3].

4- Conclusion

Through the preceding analysis, it becomes clear that while Algerian law provides a detailed and structured legal framework governing real estate seizure as a means of judicial enforcement, several substantive and procedural challenges persist in its practical application. The dual objective of protecting creditors' rights while safeguarding the debtor's property rights is theoretically embedded within the Code of Civil and Administrative Procedures. But the enforcement reality reveals significant inefficiencies and imbalances that call for careful reconsideration and reform.

The key findings of this study highlight, firstly, the excessive formalism and procedural length characterizing real estate seizure proceedings, which often undermine both creditor efficiency and debtor protection. The obligation to follow multiple steps from establishing the insufficiency of movable assets to publishing auction announcements in various forums introduces both administrative complexity and financial burdens. Secondly, the existing legal mechanisms do not sufficiently differentiate between types of debtors or properties, applying a uniform system whether

[1] Ibidem
[2] See supra Algerian Code of Civil and Administrative Procedures, Law No. 08-09 of 25 February 2008, Articles 726–728
[3] Othmani Abderrahmane, op cit , p168

the seized property is a commercial asset or a primary family residence. This lack of nuance creates social and economic hardships for vulnerable debtors and contributes to housing insecurity. Thirdly, structural weaknesses within administrative institutions, particularly property registries and judicial offices, exacerbate procedural delays and legal uncertainty.

In light of these findings, several legislative and administrative reforms are proposed:

1. Introducing differentiated grace periods for debtors based on property type and social considerations, particularly extending the thirty (30) day payment period when primary residences are involved.
2. Establishing judicially supervised repayment plans or mandatory mediation stages before proceeding to public auction in cases of individual debtors, especially where the debt amount is below a defined threshold.
3. Implementing a fully digitalized and centralized property registration system to streamline seizure registrations, reduce administrative delays, and enhance legal certainty.
4. Creating specialized enforcement units within Algerian courts, providing targeted training for judges and bailiffs, and simplifying administrative procedures related to seizure enforcement

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