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The Legal Framework for the Use of Public Land in the Development of Sports Infrastructure

Larbi Farida ^{1*}

¹ University of Blida 2, (Algeria), ef.larbi@univ-blida2.dz

Abstract:

This study aims to shed light on the legal framework governing the use of public land for the construction of sports infrastructure in Algeria, through an analysis of the relevant legislative and regulatory texts, as well as the mechanisms of allocation and exploitation. The research concludes that public land constitutes a fundamental pillar for the development of sports; however, its utilization faces challenges that are both legal and practical in nature. From a legal perspective, Algerian legislation regulates the allocation of public land through administrative decisions or special regulatory provisions, while its exploitation is carried out through various mechanisms such as concessions, long-term leases, or public-private partnerships. From a practical standpoint, bureaucratic hurdles, weak planning, and insufficient oversight remain among the main obstacles to effective land use. The study recommends updating the legal framework and adopting a more integrated approach that takes into account the sporting, economic, and urban dimensions, thereby ensuring that public land becomes an effective instrument for achieving sustainable sports development

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*Corresponding author / ef.larbi@univ-blida2.dz

1. INTRODUCTION

Sports infrastructure represents the cornerstone of any policy aimed at developing the sports sector and enhancing its role in serving society. Stadiums, sports halls, and other athletic facilities are not merely physical spaces designated for competition or training; rather, they constitute strategic tools for achieving multiple objectives, including public health, physical education, talent development, and investment attraction. The existence of modern and integrated sports facilities is often seen as an indicator of a country's progress, since the strength of sports systems is measured by their ability to provide foundational structures that allow access to sport for all. In fact, the growing importance of sports infrastructure has become an integral component of public policies, especially as investment in sport has emerged as a driver of the national economy and a means of strengthening social cohesion, while also enshrining the right to sport as a fundamental right recognized internationally.

The realization of sports infrastructure necessarily requires the availability of suitable land resources. Here, the pivotal role of public property emerges, as it serves as the primary vehicle for various development projects, including those related to sports. Public lands allow the state and local authorities to allocate spaces for the establishment of stadiums, sports halls, and complexes—either directly through public investment or indirectly through partnerships with the private sector. Algerian legislation has established several mechanisms to facilitate this process, notably through Law No. 90-30 on National Property and Law No. 13-05 on the Organization of Physical and Sports Activities, both of which provide legal frameworks for allocating public land to sports facilities, while also safeguarding public ownership and ensuring that the general interest is preserved. Thus, public property forms a bridge between land policy and sports policy, supporting comprehensive development and reinforcing collective access to the right to sport.

Despite the undeniable importance of public land in the construction of sports infrastructure, the reality reveals several challenges hindering its optimal utilization. These include the lack of coordination among the various authorities responsible for managing national property, lengthy and complex administrative procedures for land allocation, conflicting priorities between urban expansion and sports projects, and weak oversight mechanisms regarding land use after



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allocation. On this basis, the central research question can be formulated as follows:

To what extent does the legal framework governing public land in Algeria facilitate the establishment of sports infrastructure and contribute to sustainable sports development?

This research seeks to highlight the legal and regulatory framework governing the use of public land for the creation of sports infrastructure, by examining the role of public property in supporting national sports policies and identifying the different legal mechanisms established by Algerian law for land allocation and utilization in sports projects. It also aims to analyze the practical and regulatory challenges facing this process—such as bureaucracy, overlapping jurisdictions, and conflicting development priorities—while drawing comparative insights from countries like France and Morocco in order to identify best legal practices in this domain.

Furthermore, the study aspires to provide a critical reading of the existing framework and to propose practical recommendations that could enhance the effectiveness of the legal regulation of sports property, ensuring the sustainable development of sports infrastructure and the balanced use of public land in a way that protects public ownership while meeting the needs of the sporting community.

Methodologically, the research relies on a descriptive-analytical approach through the examination of legislative and regulatory texts related to public property and sports in Algeria, complemented by a comparative method to present relevant international experiences in allocating public land for sports facilities. A critical approach is also adopted to identify shortcomings and gaps in national legislation and to suggest remedies in line with contemporary approaches to public property management and sports policy development. In addition, the study draws on a wide range of academic references, previous research, and official documents issued by national and international institutions concerned with this field.

Chapter One: The Concept of Public Lands and Their Legal Nature

Public lands constitute the foundation of public property, which falls within the framework of national assets. Their importance lies in serving as a means of achieving sports development by providing public spaces dedicated to sports facilities. Hence, it is essential to understand the legal nature of public lands and

the framework governing their allocation to sports projects, particularly those linked to public property on the one hand, and those allocated for investment or managed by the private sector on the other.

Section One: The Concept of Public Lands and Their Legal Foundations

Public lands are considered a central component of national property, forming the real estate base upon which the State relies to implement its developmental policies across various sectors, including the sports sector. They represent the physical space upon which infrastructure and facilities of a public character are constructed, and are subject to specific legal rules designed to safeguard public ownership and ensure their use in pursuit of the public interest.

Subsection One: The Legal Definition of Public Lands

The Algerian legislator has established a clear legal framework for public lands under the National Property Law No. 90-30 of December 1, 1990. Article (2) of this law states: **“National property includes all real estate and movable property owned by the State, local authorities, and public administrative institutions.”** (90-30, 1990, p. 4) The same law divides national property into two main categories: public national property and private national property.

Public lands designated for collective use or public facilities—such as sports facilities—belong to the category of public national property. Allocating a plot of land for the construction of a stadium or a sports hall thus places it within the realm of public property, so long as its use is directly linked to the public interest. Conversely, if the lands are designated for investment or commercial projects in the sports sector, such as private sports complexes or profit-oriented training centers, they fall under private national property and are governed by civil law and contractual arrangements between the State and private actors.

This distinction between public and private national property reflects the legal approach that seeks to balance the protection of public assets, on the one hand, and the promotion of investment and public-private partnerships, on the other—thereby ensuring sports development without undermining the principle of State sovereignty over its lands.

Subsection Two: The Legal Characteristics of Public Lands

Public lands are defined by a set of legal characteristics that distinguish them from private ownership. Among the most significant are:



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Inalienability: Public lands cannot be sold or transferred to private parties so long as they are allocated for public utility. The National Property Law explicitly affirms the protection of public assets from arbitrary or unlawful disposal. (90-30, 1990, p. 17)

Imprescriptibility: Public lands cannot be acquired through prescription; regardless of the length of private use, ownership always remains with the State. (Belalia, 2015, p. 112)

Governance by Public Law: The management and use of public lands are subject to administrative law rather than civil law. Any allocation or change in use is effected through an administrative decision issued by competent authorities (ministries, wilayas, municipalities), not through ordinary civil contracts (Chelali, 2018, p. 89).

Protective Character: The law imposes an obligation on administrative authorities to monitor and protect public lands from unlawful use or encroachment. Any violation of public property is regarded as a serious offense that may result in both civil and criminal liability.

These characteristics render public lands a unique legal category, fundamentally distinct from private property, where the public interest prevails over individual interests. This explains the complexity of procedures required for their allocation to the construction of sports infrastructure, as compliance with precise, transparent, and legally grounded processes is mandatory.

Section Two: The Legal Nature of Sports Facilities within National Property

Sports facilities represent one of the principal forms of utilizing public lands in Algeria, as these lands are allocated for the construction of football stadiums, multipurpose sports halls, swimming pools, and sports complexes. The legal nature of these facilities has been a central concern for the legislator, as they raise issues related to their status as public utilities on the one hand, and the possibility of involving the private sector in their construction and management on the other.

Subsection One: Sports Facilities as Public Utilities

Sports facilities established and financed by the State or local authorities are classified as part of public national property, due to their direct connection to the public interest and their accessibility to all citizens for practicing sports activities. The Algerian legislator affirmed this principle in Law No. 13-05 on the organization of physical and sports activities, which obliges the State and local

authorities to establish and manage sports facilities and to provide appropriate conditions for practicing sports. (13-05, 2013, p. 14)

Accordingly, major stadiums and sports halls—such as the July 5th Stadium in Algiers or the Olympic Complex in Oran—are considered public sports utilities and are governed, in terms of administration and regulation, by public law. They are inalienable, immune from seizure, and may not be disposed of in any manner that undermines their public character. Their management may be undertaken directly by public authorities, or indirectly through public institutions of an administrative or commercial nature.

Subsection Two: Private Sector Involvement and Their Transformation into Private Property

Despite their public character, Algerian legislation has opened the door to private investment in the sports sector, particularly through mechanisms such as concession or long-term lease. In such cases, the lands and facilities concerned are reclassified under private national property.

Law No. 08-15 on land orientation provides for the possibility of granting concessions for the exploitation of public lands to private parties for the purpose of establishing sports or youth-related projects (08-15, 2008, p. 5). Likewise, Article (62) of Law No. 13-05 on sports allows for certain sports facilities to be managed by the private sector, provided that a contractual framework (“cahier des charges”) precisely outlines the investor’s rights and obligations vis-à-vis the State and users. (Aouadi, 2019, p. 203)

This policy direction is evident in several recent projects carried out through public-private partnerships, such as multipurpose sports halls and sports hotels affiliated with major clubs. In these cases, the lands shift from the category of public national property to private national property, thereby becoming available for investment, while remaining subject to State oversight to ensure the continuity of public service and the safeguarding of the sports interest.

This transformation clearly illustrates the new economic orientation adopted by the Algerian legislator in the sports sector—one that combines public ownership with private funding in an effort to alleviate the State’s financial burden while ensuring the sustainability of sports infrastructure.

Chapter Two: Allocation of Public Lands for Sports Infrastructure

The allocation of public lands for the establishment of sports infrastructure raises multiple legal and regulatory issues, as it involves a sensitive balance



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between safeguarding national property and ensuring public utility on the one hand, and the need to develop the sports sector and provide appropriate spaces for physical activities on the other. The Algerian legislator has established several legal mechanisms to regulate this allocation, whether within the framework of land laws or through specific sports legislation, while ensuring guarantees that preserve the public nature of such facilities, even when the private sector is allowed to intervene.

Section One: The Legal Framework for Allocating Public Lands

The allocation of public lands for sports infrastructure is a fundamental legal step designed to regulate the use of national property in accordance with public interest. The nature of the allocation varies depending on whether the land belongs to the category of public or private national property, and depending on the scale of the project in question. The Algerian legislator has therefore put in place an integrated legal framework that governs the allocation of public property, whether through administrative decisions or through specific legislative or regulatory instruments, in order to preserve the public character of these assets while meeting the needs of the sports sector.

Subsection One: Administrative Allocation of Public Property

Administrative allocation refers to the process by which public property is transformed from a mere landholding into a public utility serving a specific community, through an administrative decision issued by the authority owning or supervising the land. Law No. 90-30 on National Property stipulates that public national property shall be allocated for uses directly related to the public interest, such as education, health, sports, and transportation. (90-30, on National Property, 1990, p. 7)

In practice, administrative allocation is implemented through provincial or municipal decisions issued by local authorities, granting land for the construction of a municipal stadium or a multipurpose sports hall. This allocation can only be altered through another administrative decision issued by the same or a higher authority, thereby reinforcing the inalienable nature of public property.

Administrative allocation is characterized by flexibility and swiftness compared to legislative procedures, enabling local authorities to respond more effectively to the sports-related needs of their communities. However, such flexibility may also give rise to challenges, particularly in the absence of precise

urban planning frameworks, sometimes leading to poor site selection for stadiums or sports halls, or overlap with other urban uses.

Subsection Two: Allocation through Specific Legislative or Regulatory Instruments

In addition to administrative allocation, the development of certain major sports projects—such as Olympic complexes or national stadiums—requires the issuance of specific legislative or regulatory instruments that precisely designate the lands reserved for such projects and outline their management modalities. In such cases, a mere administrative decision is insufficient, as legislative or regulatory intervention is necessary to confer an official and exceptional status upon the project.

Law No. 13-05 on the organization of physical and sports activities explicitly affirms, in Article 57, the State's obligation to establish and develop major sports infrastructure. (13-05, on the Organization of Physical and Sports Activities, 2013, p. 15) Furthermore, its implementing executive decrees include provisions that specify the modalities for allocating public lands to these projects and the authorities responsible for overseeing them.

This approach is clearly illustrated by large-scale national projects such as the new Olympic Complex in Oran, which hosted the 2022 Mediterranean Games. The lands required for this facility were allocated by virtue of an executive decree, reflecting the project's scale and international significance. (16-171, 2016, p. 4) Similarly, the construction of new football stadiums in the provinces of Baraki and Tizi Ouzou was facilitated through special regulatory decisions that designated the lands for these facilities, thereby ensuring their strategic importance.

Legislative or regulatory allocation thus provides an additional safeguard for the protection of public property against potential disputes and confers upon major sports projects the status of "national interest," thereby strengthening their legal standing and granting them priority in financing and implementation.

Section Two: Mechanisms for the Utilization of Public Lands Allocated to Sports

The allocation of public lands for the construction of sports infrastructure is not complete without clarifying the legal modalities by which such lands are utilized. The Algerian legislator has established several mechanisms that allow for the use of public property in the sports sector, aiming to strike a balance between safeguarding public ownership and ensuring investment attractiveness. Among the



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most notable of these mechanisms are the concession system, long-term leasing, and public-private partnership (PPP) models.

Subsection One: The Concession System as a Means of Utilizing Public Lands

The concession system is one of the primary mechanisms introduced by the Algerian legislator for the utilization of private national property, formalized under Law No. 08-15 on Land Use and Orientation. This system grants individuals or legal entities the right to exploit public land for a fixed duration in exchange for their obligation to develop a project serving the public interest, without transferring ownership of the land to them. (08-15, on Land Use and Orientation, 2008, p. 10)

In the sports sector, the concession system enables the construction of stadiums, multipurpose sports halls, or youth complexes by private investors or companies on lands classified as national property. Such concessions are governed by a set of terms and conditions that clearly define the beneficiary's obligations, including project completion deadlines, facility standards, maintenance requirements, and the fees or royalties payable to the State.

The significance of this system lies in its ability to preserve public ownership of the land while simultaneously enabling private actors to exploit and invest in it. However, challenges arise from weak oversight mechanisms regarding investors' compliance with their obligations. Reports have indicated instances of unlawful exploitation of lands granted under concession for sports projects that were either never completed or were diverted for commercial purposes. (Ben Aissa, 2020, p. 187)

Subsection Two: Long-Term Leasing and Public-Private Partnership Models

In addition to the concession system, the Algerian legislator has permitted the utilization of public sports lands through long-term lease agreements, which may extend up to 99 years. This mechanism is often employed for large-scale investments that require extended periods to recover costs, such as Olympic complexes or sport-tourism resorts. The National Property Law provides for such lease arrangements, provided that the public character of the property is preserved. (90-30, on National Property, 1990, p. 9)

In recent years, a new trend has emerged in the form of public-private partnerships (PPP). This modern model seeks to alleviate the financial burden on the State: rather than the State bearing the full costs of constructing and maintaining sports facilities, agreements are concluded with private companies that assume responsibility for financing, construction, and management, in return for specific revenues (such as the commercial exploitation of the facility). (Bousmaha, 2021, p. 224)

This partnership has proven to be an effective tool for balancing public interest with economic viability, particularly given the growing demand in the sports sector for facilities that meet international standards. The Algerian experience with certain projects, such as neighborhood sports complexes financed through partnerships, has demonstrated their usefulness. Nonetheless, implementation continues to face challenges related to transparency and the weaknesses of the regulatory framework governing such contracts.

Conclusion

Through this study, which examined the legal framework governing the use of public lands for the establishment of sports infrastructure, it has become clear that public property plays a fundamental role in supporting the sports sector, serving as the primary foundation for the construction of stadiums, sports halls, and major sports complexes. The analysis has demonstrated that the Algerian legislator has developed a comprehensive legal framework for the allocation and utilization of such lands, notably through the National Property Law, the Land Use and Orientation Law, and the specific laws governing sports.

However, the practical reality reveals the existence of several challenges, the most significant of which include the difficulty of reconciling public interest with private investment requirements, the weakness of monitoring mechanisms for projects granted under concession or lease, and bureaucratic obstacles that slow down the pace of constructing sports facilities. Furthermore, the absence of precise urban planning schemes sometimes leads to the misallocation of public property, negatively impacting the effectiveness of sports infrastructure.

Recommendations

Revision of the legal texts regulating the use of public sports property to ensure greater transparency and investment attractiveness.

Linking the allocation of public lands to urban development and planning schemes to guarantee the selection of appropriate sites for sports facilities.



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Strengthening oversight mechanisms to ensure beneficiaries of concessions or leases comply with contractual obligations, with strict penalties imposed for breaches.

Establishing a clearer legal framework for public-private partnership (PPP) contracts in the sports sector, in order to attract both national and foreign investment.

Ensuring equitable distribution of public lands allocated for sports between major cities and remote areas, thereby promoting social and sports justice.

Integrating principles of sustainable development into projects involving the use of public sports property, such as respecting green spaces and adhering to environmental standards

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