

Establishing a specialized enforcement judiciary in Algeria: A Reformist Vision to Ensure Efficient Executive Justice

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Send Article Date: 02 /08/2025

Date of acceptance of the article: 11/11/2025

Abstract:

This study addresses, through a comparative analytical approach, the issues related to the system of enforcement of civil judgments, a topic that continues to pose concrete practical difficulties in the judicial reality. It should be noted that enforcement disputes, whether related to temporal obstacles or substantive disputes, are distributed among various legal texts, particularly the Civil Code, the Code of Civil and Administrative Procedure, as well as the legislation regulating the profession of judicial reporter. These disputes also raise issues in determining the competent judicial authority between the trial judge and the president of the court, which perpetuates a state of legal fragmentation and affects the effectiveness of implementation. Accordingly, the study raises a fundamental question about the content of this system and calls for the adoption of the model of the execution judge, adopted in most comparative legal systems, as an option aimed at unifying the supervision of execution procedures and overcoming the issues associated with multiple and conflicting jurisdictions..

key words: Execution ; Procedures ; Judgments ; Execution Judge ; Jurisdiction.

Introduction:

The Execution systems vary in comparative legal systems, varying between a model based on judicial bailiffs, a system based on enforcement judges, and compromise solutions that harmonize between these two models, granting both the judicial bailiff and the enforcement judge a role in the process of executing bonds, whether judicial or quasi-judicial. This diversity aims to consolidate an authentic legal principle derived from Roman jurisprudence that "no one may take his right into his own hands", in order to enshrine the rule that rights can only be fulfilled through the judicial authority and within the framework of regulated and controlled legal procedures.

When examining the legislative texts that regulate execution and address the issues it raises on both theoretical and practical levels, it is clear that the legislator seeks to achieve a delicate balance between two conflicting interests: On the one hand, there is the interest of the debtor who may invoke insolvency and stubbornly refuse to fulfill his obligations in order to evade them, and on the other hand, there is the interest of the creditor who may hasten execution and seek to fulfill his right even at the expense of the legal guarantees guaranteed to the debtor.

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In this context, the legislator intervenes. This is a noble goal in principle, but in practice, it faces many obstacles that make its full implementation a complex matter that requires continuous institutional and legislative development to ensure its effectiveness and efficiency.

Disputes related to the implementation process raise many issues of a scientific and practical nature, necessitating a serious examination of the flaws in the existing executive system. These issues can only be addressed through an accurate diagnosis of the most prominent features of the imbalance, especially the nature of the legal system that governs the executive process. This prompts us to pose the following central question:

To what extent does the system of execution of judicial bonds in Algerian law respond to the requirements of execution and face its practical challenges?

Based on this question, we seek to analyze and deconstruct the elements of the existing legal system in Algeria related to the execution of bonds, relying mainly on the analytical method, by studying the legislative texts regulating the field of execution. We also rely on the descriptive method in order to present the studied legal phenomenon accurately and objectively, in order to form a comprehensive perception of the reality of judicial enforcement in the light of Algerian legislation.

Accordingly, the research plan will be organized into two sections, in accordance with the requirements of academic methodology and the principles of sound legal construction.

The First Topic: A reading of the current system of enforcement in Algerian legislation

Second Topic: The necessity of designating a judicial body that specializes in resolving all enforcement issues.

THE FIRST TOPIC : A READING OF THE CURRENT SYSTEM OF ENFORCEMENT IN ALGERIAN LEGISLATION

If one looks at the legislative system regulating enforcement matters and the associated legal issues, one will undoubtedly notice that the provisions related to enforcement are scattered and distributed among several legislative sources, which affects the clarity of the legislative vision and the safety of application (first requirement). A study of the rules of judicial jurisdiction in this area shows that, as a general rule, the jurisdiction to consider enforcement disputes is assigned to multiple judicial bodies, with exceptions that deepen the issue of overlapping jurisdiction and sometimes conflicting rulings (second requirement):

FIRST REQUIREMENT: THE SCATTERING OF TEXTS REGULATING ENFORCEMENT

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The legislature has devoted a legislative organization to enforcement matters in civil matters, which is clearly reflected in the provisions of the Civil Code, as the general law in a specific range of matters, especially with regard to actions aimed at protecting the right, urgent actions, and parallel mechanisms for filing a lawsuit in accordance with the provisions of the law (Section I). However, the procedural law had the largest share in this area, as it devoted detailed texts to this aspect, including entire chapters and chapters dealing with the practical and organizational aspects of enforcement procedures, reflecting the pivotal practical nature that characterizes this stage of the proceedings (Section II):

Section I. General law: Some of the provisions of the Algerian Civil Code are devoted to enforcement.

Through a horizontal analytical reading of the texts and provisions of the Algerian Civil Code, it is clear that although the legislator did not devote a separate chapter to enforcement issues, he addressed some of them in a partial and limited manner, distributing them among several articles, reflecting an unsystematic presence of these issues within the body of civil codification. Article 39 stipulates the place of execution of legal acts as a framework related to forced execution procedures. The legislator also addressed the issue of compulsory execution within the provisions of the effects of the obligation in Part II, through Articles 160 (paragraph 2), 170, and 171, distinguishing between execution in kind and compensation as two main means of enforcing obligations.

In addition, the legislature regulated the means of execution in Articles 169 et seq. and made special provisions for execution under certain contracts, including the contract of contracting in Article 553 and the obligations of the architect under Articles 555 and 560. It also addressed the issue of priority of execution in contracts related to insurance in kind, stipulating in Article 663 that the right to execute on the funds allocated to the insurance before the execution on the guarantor's funds in kind. As for the mortgage contract¹, Article 901 is devoted to it, while the judicial order of allocation issued by the president of the court is regulated in Article 942 (paragraph 3):

Two main conclusions can be drawn from this legislative treatment: First, that the legislature has paid special attention to some parts of enforcement within the framework of the Civil Code as the general law of civil relations; and second, that this regulation has remained insufficient in terms of quantity and scattered in terms of methodology, which is not sufficient to establish an integrated or well-defined system for enforcement matters within the framework of civil law alone.

Section II - Procedural legalization: Some comparative legal systems, as is the case in Egyptian legislation, adopt a special approach in regulating the rules, procedures, and effects of execution,

¹ - Law No. 08-09 of February 25, 2008, containing the Code of Civil and Administrative Procedure, Official Gazette No. 21 of April 23, 2008, as amended and supplemented.

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by allocating a separate law known as the "Execution Law", which is exclusively concerned with regulating all aspects of the executive process. In contrast, other countries, including Algeria, adopt the option of including enforcement provisions within the Code of Civil and Administrative Procedure, which is the general procedural framework governing litigation and the enforcement of judicial rulings.

With reference to the Algerian Code of Civil and Administrative Procedure, it is clear that the legislator has dedicated Book III under the title: "On the Forced Execution of Executive Documents", to collect the legislative provisions related to execution, starting from Article 584 onwards. These provisions are divided into several chapters that deal in detail with the stages and procedures of execution, starting with the offer of fulfillment and deposit, through the deposit of the bond and acceptance of the guarantor, accounting proceedings, the organization of general provisions of execution, the organization of various types of seizures, and the distribution of the amounts resulting from the compulsory execution procedures.

However, the legislature's regulation of enforcement matters is not limited to Book III alone, but includes scattered provisions elsewhere in the procedural code. For example, Article 40 (paragraph 10) stipulates emergency jurisdiction in the event of an execution issue, and Article 95 pertains to the invalidity of execution procedures related to investigative measures. Article 281 regulates the executive version of judicial judgments, while Article 303 regulates cases of execution in exceptional circumstances or in cases of extreme urgency, and Article 309 empowers the chief registrar to grant the executive version in the absence of an objection.

This organization shows that the Algerian legislature has adopted a practical approach in including the rules of execution within the framework of procedural law. However, this distribution among separate articles may affect the unity of the legal system of execution and limit the ease of reference, which raises the question of the need for a separate codification that achieves uniformity and clarity in the regulation of this important procedural stage.

SECOND REQUIREMENT: DISTINCTION OF JURISDICTION BETWEEN TWO BODIES

The nature of the judicial jurisdiction related to the resolution of enforcement issues leads to the conclusion that this power is assigned to two different judicial authorities, depending on the nature and severity of the issue. On the one hand, the president of the court, in his capacity as a judge of urgent matters, is competent to intervene in matters of a temporary or urgent nature related to execution (Section I). On the other hand, some enforcement disputes may fall under the jurisdiction of the trial judge, especially when they concern fundamental disputes that affect the origin of the right or affect the validity or legality of the execution (Section II):

.Section I - The origin of enforcement disputes:

Regardless of the different forms and mechanisms for raising an execution dispute, the practical principle requires that the dispute must first be submitted to the judicial bailiff during the

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execution proceedings. According to Article 631 of the Code of Civil and Administrative Procedure, this procedure applies whether the execution is an actual execution or a seizure, regardless of its nature, whether it is a conservatory or executive seizure, whether it is on the debtor's property or on property in the possession of others, and regardless of the party raising the issue, whether the debtor or another person with a legal interest in objecting to the execution.

In this case, the judicial bailiff, as the executing authority¹, instructs the parties to the enforcement dispute to appear before the president of the competent court by drawing up an official report containing the details and circumstances of the dispute. However, if the bailiff refuses or fails to submit the issue to the president of the court as required by the procedural rules, Article 632 of the same law authorizes any of the concerned parties to submit their request directly to the president of the court in an "hour-to-hour" urgent proceeding, with the obligation to assign the bailiff and the other parties to appear before the urgency judge.

This request has important procedural implications, as enforcement proceedings are temporarily suspended until the competent judge decides on the enforcement issue or the request for a stay of execution, in order to ensure the balance between the interests of the parties to the enforcement litigation and to protect the disputed rights from any action that may lead to irreparable harm.

The law requires the president of the competent court to rule on the executive complaint or the request for a stay of execution within a legal time limit not exceeding fifteen (15) days from the date of submission of the request. The judge issues his decision in this regard by a reasoned order stating the legal and factual grounds on which it is based. This order has a final character, as it is not subject to any form of appeal, reflecting the urgent and decisive nature of this type of executive dispute, and enshrining the principle of stability of enforcement proceedings and ensuring their speedy resolution.

Section II - Exception in dealing with obstacles to enforcement:

The rule of original and inherent jurisdiction in the adjudication of enforcement disputes is the prerogative of the judge of urgency, who is the president of the competent court, regardless of the type of dispute, whether temporal or substantive. This principle constitutes a departure from the logical principle that requires all disputes to be heard by the trial judge, and this exception has manifested itself in practice in some executive suits, such as a suit to invalidate the execution or seizure procedures in accordance with Article 643 of the Civil and Administrative Procedures Code, as well as the recovery stipulated in Article 717 and the claim of entitlement stipulated in Article 772 of the same law.

¹ - See Law No. 06-03 of February 20, 2006, regulating the profession of bailiff, amended and supplemented by Law No. 23-13 of August 05, 2023, Official Gazette No. 02 of August 09, 2023.

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However, the legislator stipulated specific exceptions that take the issues of executive litigation out of the jurisdiction of the urgency judge to be within the jurisdiction of the trial judge, and the most prominent of these exceptions are¹:

First: Article 587 of the Code of Civil and Administrative Procedure stipulates that any dispute related to the acceptance of the guarantor must be presented by the opponent at the first session held to consider the matter, where the judge decides on it immediately upon the occurrence of the dispute. The ruling issued in this dispute is binding and enforceable, even if there is an objection or appeal against it, reflecting the urgency and finality that characterizes this type of executive dispute.

Second: The claim of nullity of the forced sale:

It is clear from reading the text of the relevant article of the Code of Civil and Administrative Procedure that the judge competent to rule on issues of invalidity of the auction award is the trial judge, provided that the applicant has a legal interest and capacity. Accordingly, this judge is empowered to consider and rule on the validity or invalidity of the forced sale proceedings, provided

THE SECOND TOPIC : THE NEED FOR A SPECIALIZED JUDICIAL BODY TO DECIDE ON ALL ENFORCEMENT MATTERS

The dispersion and scattering of legislative texts regulating enforcement matters, whether substantive or procedural, as well as the multiplicity of bodies and persons in charge of enforcement proceedings, negatively affect the functioning of executive justice. It makes litigation in enforcement matters a complex process that consumes effort, time and money, and hinders the timely recovery of rights, especially in cases that require urgency and speedy resolution.

From this point of view, there is an urgent need to identify the components of a specialized and sober enforcement judiciary capable of controlling enforcement mechanisms and ensuring their proper functioning (the first requirement). This judiciary must be based on precise and effective principles and rules that strike a balance between protecting rights and expediting procedures, thus ensuring the achievement of effective executive justice (second requirement):

FIRST REQUIREMENT: ELEMENTS OF AN OBJECTIVELY SPECIALIZED ENFORCEMENT JUDICIARY

¹ - Hamdi Bacha Omar, Methods of enforcement according to Law No. 08-09 of February 25, 2008 containing the Code of Civil and Administrative Procedure, Dar Houma, Algiers, 2012, p. 364.

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Based on what has been presented and analyzed previously, it is clear that the legal framework of the enforcement judiciary must be restructured objectively, with the aim of adapting it to the requirements of the litigant and ensuring that executive justice is achieved effectively and transparently. This requires defining clear criteria for the specific jurisdiction of this jurisdiction, in addition to legalizing the spatial jurisdiction to ensure harmony and complementarity in the exercise of judicial power and increase the efficiency of adjudicating executive disputes.

Section I: In terms of specific jurisdiction

The actual establishment of the enforcement judge system is based on the fact that it is an independent judicial body with a specific jurisdiction assigned to it by law, so that this jurisdiction does not fall to any other court other than another court. Some jurisprudence has drawn an analogy between the status of the enforcement judge and that of the urgency judge within the judicial headquarters, where the enforcement judge manages all enforcement affairs and enjoys exclusive jurisdiction in this field¹.

On the other hand, another group of jurists adopted a different view², arguing that the number of enforcement courts should be commensurate with the number of actual courts affiliated with each judicial council, in order to ensure greater efficiency and harmony in dealing with the huge number and complexity of enforcement cases.

The execution judge exercises his specific jurisdiction through three main functions: Administrative, jurisdictional, and judicial.

The administrative function is to supervise the judicial bailiffs and ensure the regularity of the execution litigation proceedings.

The jurisdictional function stems from the great importance it acquires, as the execution judge decides on requests and petitions submitted to him within simplified and expeditious procedures that are appropriate to the nature of the execution litigation.

The judicial function is to adjudicate disputes that arise during the execution process, whether they are urgent disputes (executive issues) or substantive disputes related to the essence of the executive process.

¹ - Dr. Ramzi Seif, Rules of Enforcement of Judgments and Notarized Documents in the Law of Pleadings, Arab Renaissance House, Egypt, 1968, p. 202.

² - Dr. Mohamed Abdelkhalek Omar, Principles of Implementation, Arab Renaissance House, Egypt, 1977, p. 22.

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Thus, the function of the execution judge varies depending on the context, as he is considered a judge of temporal matters when exercising his jurisdictional function, a judge of urgent matters when adjudicating executive disputes, and a judge of substance when considering substantive disputes related to execution, making him a multi-faceted and fully-functional judge.

Some of the most prominent legal implications resulting from considering the enforcement judge as the qualitatively competent body to hear enforcement matters include the following:

- The enforcement judge enjoys general jurisdiction in enforcement litigation: No other judge or court may hear enforcement cases, and if a case related to enforcement is brought before it, it must, by virtue of the specific jurisdiction, issue a judgment of lack of jurisdiction and immediately refer the case to the enforcement judge.
- No enforcement matter shall be outside the jurisdiction of the enforcement judge unless explicitly stipulated: The basis of the specific jurisdiction of the enforcement judge is exclusive, and no exception may be relied upon unless the law expressly provides for another competent authority, or if the matter in question is not primarily related to enforcement.
- The parties to the enforcement dispute may not agree to grant jurisdiction to a party other than the enforcement judge: Any agreement that contradicts the exclusive jurisdiction of the enforcement judge shall not be recognized, even if the interests involved are of a private nature, because the law requires the exclusive jurisdiction of the enforcement judge.
- The jurisdiction of the enforcement judge in some criminal and family disputes upon referral: As an exception to the general rule that criminal cases are exclusively handled by the criminal judiciary, the enforcement judge remains competent to consider the execution of the financial part of criminal judgments. It is also competent to adjudicate executive disputes related to personal status judgments, regardless of their diverse nature, in addition to its jurisdiction in cases referred to the

Section II: In terms of territorial jurisdiction

As a general rule, the objectively competent enforcement judge is considered locally competent to hear enforcement cases, as long as the place of execution - i.e. the money subject to execution - falls within the jurisdiction of the court to which the enforcement judge is affiliated. The criterion for determining territorial jurisdiction is related to the location of the property subject to execution, with the prerequisite that the execution must have been carried out through executive seizure of property owned by the debtor, and the creditor must have an executive deed in his possession¹.

¹ - Dr. Azmi Abdel Fattah Attia, Rules of Forced Execution in Pleadings Law, Dar Al-Fikr, Egypt, 1991, p. 85.

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However, there are exceptional cases that fall outside the scope of this rule depending on the location of the money, namely¹:

1. In the case of a non-executive seizure: If the execution is carried out in a different manner than a strict executive seizure, or if the execution is carried out through physical coercion, the principle of jurisdiction of the place of property does not apply, because the nature of the execution is different from execution by seizure of the debtor's property.

2. When disputes arise before the commencement of execution proceedings: If a dispute related to enforcement proceedings is filed before the actual commencement of enforcement, the locally competent judge is the judge located in the jurisdiction of the defendant's domicile, and not necessarily the enforcement judge competent for the place where the money is located.

3. In cases of execution on multiple properties that fall within the jurisdiction of different courts: The jurisprudence differs between two opinions on this matter, but the most likely opinion confirms that there must be multiple enforcement judges, so that each judge has local jurisdiction to execute or seize the real estate located within his jurisdiction.

This precise determination of local jurisdiction ensures the regularity of enforcement proceedings, avoids judicial conflicts, and strikes a balance between protecting the rights of creditors and respecting local jurisdictions.

SECOND REQUIREMENT: FOUNDATIONS OF THE EXECUTION JUDICIARY IN THE MATTER OF DISPUTES

The execution process does not always proceed according to the requirements and procedures stipulated by the legislator, as it is often hindered by a set of difficulties that may be legal, which in procedural jurisprudence are called "execution disputes", whether they are temporal or substantive disputes, or are related to material obstacles that hinder the progress of execution.

Accordingly, the judicial system tasked with examining these issues requires careful organization on two basic levels²:

- First: In terms of concept, by defining what executive disputes are and their legal and practical content, which will be addressed in the first section.

- Secondly: In terms of quantity and judicial organization, by defining the competencies and procedures that determine the judicial body in charge of examining these issues, which is the subject of the second section.

¹ - Dr. Ramzy Seif, op. cit. p. 201 ff.

² - Dr. Fathi Wali, Forced Execution in Civil and Commercial Matters, Arab Renaissance House, Egypt, 2019, p. 134.

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This division is necessary to ensure the effectiveness of the enforcement judiciary and the creation of an integrated legal environment that enables the handling of executive issues in a way that preserves the rights of the parties and establishes the principles of justice¹.

Section I: Distinguishing between legal issues and physical obstacles in implementation

It is necessary to distinguish between the technical concept of executive issues on the one hand, and the physical obstacles that hinder implementation in practice on the other hand:

First: The exact concept of executive disputes

Jurisprudence, legislation and the judiciary are unanimous in distinguishing between two types of disputes within the framework of implementation:

1- Substantive enforcement disputes:

These disputes are defined as those in which one of the parties to the execution or a third party requests a substantive ruling related to the execution process, whether it is valid or invalid, fair or unfair.

On this basis, jurisprudence categorizes substantive enforcement disputes into several sections:

- A binary division into validity disputes and fairness disputes.²
- A binary division into disputes related to the subject matter of the execution itself and disputes related to the executive procedures.
- Tripartite division into disputes between the executor and the executee, disputes between the creditor, and third-party disputes.
- A quadruple division includes a dispute in the substantive right, a dispute in the right of execution, a dispute in the execution of a particular asset, and a dispute in the execution procedures.

Substantive enforcement disputes revolve around the elements and conditions of compulsory enforcement, and are called substantive because they aim to cancel or uphold the enforcement process with a final judgment related to the origin of the enforcement right, unlike temporal issues, which are limited to temporary protection during the course of enforcement.

¹ - Dr. Dr. Ahmed Abu Al-Wafa, Execution Procedures in Civil and Commercial Articles, Al-Wafa Library, Egypt, 2015, p. 671.

² - Dr. Azmi Abdel Fattah Attia, op. cit. p. 77.

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2- Temporary enforcement disputes:

Jurisprudence defines interim enforcement disputes as those disputes that interfere with the execution process, whether permissible or impermissible, valid or invalid, raised by one of the parties to the execution against the other party or by third parties against them. These disputes relate to the executive deed or the right it confers, or to the execution procedure itself¹.

According to another group of jurisprudence, they are related to the conditions that must be met for the forced execution procedure, where the judge issues a ruling on the permissibility or impermissibility of the execution, its validity or invalidity, its suspension or continuation, or limiting its scope².

Examples include: The commencement of execution of a court judgment that has not been granted the force of *res judicata* or has not been notified to the debtor in advance, the execution of an invalid official contract, the approval of a debt evidenced by an executive deed that is subject to an unfulfilled condition, or the existence of a legal reason that terminates the debt³.

Since interim enforcement issues represent a dispute that interferes with the enforcement process before it is completed, and results in the possibility of continuing or stopping enforcement, they differ from physical obstacles in terms of nature and effect.

Second - Physical obstacles to execution:

Physical obstacles represent factual difficulties that do not constitute legal disputes in execution, but are physical obstacles faced by the judicial bailiff during the execution proceedings, whether by the parties to the execution or by third parties, such as closing doors or resisting the executioner when he enters homes⁴.

These acts are punishable by law, as they are subject to the provisions of Articles 183 and 184 of the Penal Code as misdemeanors, and must be confronted with the appropriate legal force to ensure the progress of the execution process.

Physical obstacles of this kind do not rise to the level of executive issues in the legal sense, either substantively or temporally, and do not require judicial intervention, as public force can be relied up Section II: Distinguishing between procedures for substantive and temporal disputes

¹ - Dr. Dr. Amina Mustafa Al-Nimr, Rules of Pleadings, Mansha'at Al-Maarif, Egypt, 1982, p. 397.

² - Dr. Mohamed Ali Ratib, Urgent Matters Judiciary, p. 938.

³ - Zouda Omar, Procedures for Forced Execution, Dar Homa, Algeria, 2019, 189.

⁴ Dr. Wagdy Ragheb Fahmy, The General Theory of Judicial Enforcement in the Code of Civil and Commercial Procedure, Dar Al-Fikr Al-Arabi, Egypt, 1973, p. 340.

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The previous distinction leads to the existence of two different procedural systems in dealing with implementation disputes, which differ according to the nature of the dispute, whether substantive or temporal, as follows:

First: The procedural system for substantive disputes:

Substantive disputes in execution are subject to a set of rules that regulate their scope and procedures, the most important of which are:

1. In terms of jurisdiction and procedures:

As a general rule, the president of the court is competent to decide on these disputes, unless otherwise stipulated by law. As explained above, the urgent judiciary is competent to consider substantive enforcement issues, as confirmed by Article 643 of the Code of Civil and Administrative Procedure, which stipulates the following:

"If an enforcement or seizure procedure is subject to annulment, the garnishee or any interested party may file an urgent action against the third party and the bailiff to have the procedure annulled and its effects removed, within a period of one month from the date of the procedure, otherwise the right to request annulment shall be forfeited and the procedure shall be considered valid."

Accordingly, the emergency judiciary is the competent authority to deal with substantive enforcement issues, which constitutes an exception to the general rule that the trial judge has jurisdiction. This exception is mainly based on the text of Article 300 of the same law¹.

The jurisprudence has rightly raised an issue regarding the calculation of the one-month period stipulated for filing an annulment suit, whether it starts from the date of issuance of the measure or from the date of its notification; it also discussed the possibility of accepting the annulment suit by the detainee even after the expiration of the one-month period when challenging the official notification report.

2- In terms of effects:

The principle is that a substantive dispute in execution does not affect the progress of execution proceedings and does not lead to their suspension, as execution remains in place until a judicial ruling is issued to determine the nullity or validity of execution and its continuation. However,

¹ - In one of its decisions No. 302483 dated April 30, 2003, the Supreme Court ruled that the order to continue execution on the basis of what the appellant asserted is nothing more than a material obstacle to the proper functioning of the execution process, which is a proper application of the law Problems in execution Alteration of boundaries - material obstacle, order to continue execution, No. 1, p. 281.

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the law sometimes stipulates that execution is automatically suspended once the suit is filed in some substantive disputes related to execution, such as a suit to recover the seized movables, objection to the list of conditions of sale, suit to lift the seizure, and misrepresentation in the provisional distribution list¹.

Second: The procedural system for temporal disputes:

1. In terms of jurisdiction and procedures:

The president of the court is competent to hear interim enforcement disputes in kind, unless otherwise stipulated by a special provision. There are two procedures for filing interim disputes in execution:

A- Ordinary Procedure: This is the procedure applicable to urgent cases in general, and the case is filed through a petition deposited with the registry of the registry, in accordance with Articles 13, 14, 15, and 632 of the Civil and Administrative Procedures Law.

B- Exceptional procedure: This procedure is specific to enforcement disputes, where the dispute is submitted before the judicial bailiff, who writes an official report, and proceeds with the procedures in accordance with Article 631 of the same law.

2. In terms of effects:

According to Article 632 of the Code of Civil and Administrative Procedure, the filing of a temporary enforcement complaint, whether in the ordinary or exceptional manner, leads to the suspension of all enforcement proceedings until the case is resolved. The jurisprudence has raised questions regarding the effect of filing a second interim objection, however, the majority is that execution will not be suspended again, in accordance with the general rule stipulated in Article 635, although the second interim objection may be accepted if it differs in its cause from the first one, in accordance with the requirements of Article 338 of the Civil Code.

¹ - Dr. Mohamed Sari Al-Saadi, The Clear in the Explanation of Jabri Execution, Dar Al-Huda, Algeria, 2019, p. 277.

Conclusion:

The study of implementation issues and related obstacles necessitates a set of critical observations on the existing legislative and judicial system, as well as a number of developmental suggestions, which can be summarized as follows:

I: Observations:

- The legislative system suffers from the dispersion of texts regulating the enforcement judiciary between the Code of Civil and Administrative Procedure and the General Civil Code, which leads to complexity of application and dispersion of competencies.
- There is an overlap and unclear distribution of jurisdiction between the president of the court, the system of judicial bailiffs, the trial judge, and public prosecution judges regarding enforceable bonds and judicial rulings.
- There are legislative deficiencies in a number of issues related to executive litigation, such as the regulation of appeals against the court president's orders in some cases, and the lack of a binding time limit for the judgment holder to proceed with execution.
- Restricting the competence to adjudicate compulsory enforcement disputes related to registered and unregistered real estate and some private sales burdens the president of the court and affects the speed of adjudication.
- The weakness of the texts regulating some executive matters, especially enforcement disputes, with the regulation of enforcement procedures limited to a limited part of the Civil and Administrative Procedures Law, creating legal voids.

Secondly: Suggestions:

- The need to review and amend the legislative texts related to executive litigation, especially Articles 600, 631 and following, to be more clear and comprehensive.
- Adopting a specialized judicial system or establishing specialized departments for enforcement, as this will have a positive impact on achieving judicial efficiency and reducing the time and effort expended in handling enforcement cases.
- Issuing a special and comprehensive codification of enforcement issues, similar to what is practiced in some Arab countries such as Egypt and Lebanon

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² - Law No. 08-09 of February 25, 2008, containing the Code of Civil and Administrative Procedure, Official Gazette No. 21 of April 23, 2008, as amended and supplemented.

-Second: books:.

¹ - Dr. Dr. Amina Mustafa Al-Nimr, Rules of Pleadings, Mansha'at Al-Maarif, Egypt, 1982, p. 397.

² - Dr. Mohamed Ali Ratib, Urgent Matters Judiciary, p. 938.

³ - Zouda Omar, Procedures for Forced Execution, Dar Homa, Algeria, 2019, 189.

⁴ - Dr. Wagdy Ragheb Fahmy, The General Theory of Judicial Enforcement in the Code of Civil and Commercial Procedure, Dar Al-Fikr Al-Arabi, Egypt, 1973, p. 340.

⁵ - Hamdi Bacha Omar, Methods of enforcement according to Law No. 08-09 of February 25, 2008 containing the Code of Civil and Administrative Procedure, Dar Houma, Algiers, 2012, p. 364.

⁶ - Dr. Ramzi Seif, Rules of Enforcement of Judgments and Notarized Documents in the Law of Pleadings, Arab Renaissance House, Egypt, 1968, p. 202.

⁷ - Dr. Mohamed Abdelkhalek Omar, Principles of Implementation, Arab Renaissance House, Egypt, 1977, p. 22.

⁸ - Dr. Azmi Abdel Fattah Attia, Rules of Forced Execution in Pleadings Law, Dar Al-Fikr, Egypt, 1991, p. 85.

⁹ - Dr. Fathi Wali, Forced Execution in Civil and Commercial Matters, Arab Renaissance House, Egypt, 2019, p. 134.

¹⁰ - Dr. Dr. Ahmed Abu Al-Wafa, Execution Procedures in Civil and Commercial Articles, Al-Wafa Library, Egypt, 2015, p. 671.

¹¹ - Dr. Mohamed Sari Al-Saadi, The Clear in the Explanation of Jabri Execution, Dar Al-Huda, Algeria, 2019, p. 277.

¹² - In one of its decisions No. 302483 dated April 30, 2003, the Supreme Court ruled that the order to continue execution on the basis of what the appellant asserted is nothing more than a material obstacle to the proper functioning of the execution process, which is a proper application of the law Problems in execution Alteration of boundaries - material obstacle, order to continue execution, No. 1, p. 281.