Objection to the Execution of a Criminal Judgment

Dr. Belaggoune Aya
University Centre of Barika, Algeria, Laboratory of Governance perspectives for local sustainable development, aya.belaggoune@cu-barika.dz

Abstract:
Challenges to the enforcement of criminal judgments constitute one of the key legal safeguards established by the Algerian legislator to ensure the execution of criminal rulings. This mechanism aims to address disputes that arise during the enforcement phase, without undermining the finality of the judgment or reopening the merits of the case. The significance of this subject lies in its role in removing legal obstacles that hinder the execution of a sentence in accordance with the law, thereby striking a balance between the state's right to enforce judgments and the rights of the convicted individual and third parties.
Keywords: challenges to enforcement, impediments to enforcement, enforcement challenge proceedings, competent court.

Recibido: 31/07/2026 · Aceptado: 20/09/2026 · Publicado: 05/11/2026

Oposición a la ejecución de una sentencia penal

Dra. Belaggoune Aya
Centro Universitario de Barika, Argelia
Laboratorio de Perspectivas de Gobernanza para el Desarrollo Local Sostenible
aya.belaggoune@cu-barika.dz

Resumen
La oposición a la ejecución de sentencias penales constituye una de las principales garantías jurídicas establecidas por el legislador argelino para asegurar que dichas resoluciones se ejecuten conforme a la ley. Este mecanismo tiene por objeto resolver las controversias que surgen durante la fase de ejecución, sin menoscabar la firmeza de la sentencia ni reabrir el examen del fondo del asunto. La relevancia de este tema radica en su función de eliminar los obstáculos jurídicos que impiden la ejecución de la pena conforme a derecho, contribuyendo así al equilibrio entre la potestad del Estado para ejecutar las sentencias y los derechos de la persona condenada y de terceros.
Palabras clave: oposición a la ejecución, obstáculos a la ejecución, procedimiento de oposición a la ejecución, órgano jurisdiccional competente.

Introduction:

The enforcement of a criminal judgment marks the transition of criminal justice from the realm of adjudication to that of practical application. A judicial decision does not fully achieve its purpose merely by being issued; rather, its legal and social effects are realized only through its execution in accordance with the rules and procedures prescribed by law. However, the enforcement phase may occasionally give rise to difficulties or challenges—referred to as "objections to the enforcement of a criminal judgment"—concerning the validity of the execution, the manner in which it is carried out, or the circumstances surrounding it.

Such objections hold particular significance due to their direct connection to individual rights and freedoms, especially when involving the execution of custodial sentences or other penal measures. During the enforcement process, new facts or circumstances may emerge that were not taken into account at the time the judgment was rendered, or disputes may arise regarding the permissibility or legality of a specific enforcement action. Consequently, the legislator has established a legal mechanism allowing such objections to be raised before the competent judicial authority, thereby striking a balance between the necessity of enforcing criminal judgments, the observance of the rule of law, and the protection of the rights of the convicted individual.

Accordingly, this study aims to examine the subject of objections to the enforcement of criminal judgments under Algerian law, focusing on the procedures for filing such an objection and identifying the judicial authority competent to adjudicate it. This leads to the following central question: To what extent has the Algerian legislator

succeeded in regulating objections to enforcement in a manner that ensures[1] the proper execution of criminal judgments while maintaining a balance between the requirements of justice and the guarantees afforded to individuals? To address the issue at hand, we have divided the study into two sections, as follows:

Section One: The Authority Competent to Hear Challenges to Enforcement

Section Two: Procedures for Challenges to Enforcement

Section One: The Authority Competent to Hear Challenges to the Enforcement of Criminal Judgments

As a general rule, jurisdiction over challenges to the enforcement of criminal judgments—known as "enforcement disputes"—lies with the authority that issued the judgment or decision being enforced. It is this same authority that adjudicates such disputes. Criminal courts are categorized into courts for felonies, misdemeanors, petty offenses, and juvenile matters. Given that the criminal court for felonies is not a permanent body—but rather convenes during specific sessions—the authority to hear enforcement disputes in such cases falls to the Indictment Chamber

Accordingly, we shall examine the judicial bodies competent to hear enforcement disputes, covering both the general rule of jurisdiction and the exceptions established by the Algerian legislator.

First: Jurisdiction of Criminal Courts over Enforcement Disputes:

The jurisdiction of criminal courts to hear enforcement disputes serves as a legal safeguard designed to ensure the proper execution of criminal judgments. It empowers the competent judicial authorities to resolve difficulties that may arise during the enforcement process. Determining this jurisdiction requires identifying the judicial body legally authorized to address a given dispute, based on the nature of the issue raised and the specific stage of enforcement, all while adhering to the rules and procedures set forth in the Code of Criminal Procedure.

1- Jurisdiction of Misdemeanor and Petty Offense Courts over Execution Disputes

Pursuant to Article 14 of the Law on Prison Organization, incidental disputes arising from the execution of criminal judgments are to be brought before the judicial body that issued the judgment or decision—whether in cases involving misdemeanors or petty offenses. Furthermore, Article 521 of the Code of Criminal Procedure stipulates that "if a difficulty raised during execution pertains to judicial costs, the matter shall be referred to the judicial body that issued the judgment on the merits, in accordance with the rules established for execution disputes."

[1] Ben Slimane Mohamed El-Amine, Abderrahmane Khelfi, "Issues Regarding the Execution of Criminal Judgments," *Journal of Studies on the Effectiveness of Legal Norms*, Vol. 04, No. 02, 2020, p. 53.

Thus, the Algerian legislator has established, as a general principle, that the judicial body which issued the criminal judgment or decision holds jurisdiction over any disputes concerning its execution[2]. The rationale for this is that the court that rendered the judgment is best positioned to understand and interpret it, and is therefore the most qualified to adjudicate any execution-related disputes, given its comprehensive familiarity with the facts of the case, the parties involved, and the underlying grounds for the decision. The same applies to execution disputes concerning costs and fees; under Article 521 of the Code of Criminal Procedure, jurisdiction lies with the court that issued the judgment, in accordance with the established rules for execution disputes. Consequently, the judge who presided over the case—whether it concerned a misdemeanor or a petty offense—is the competent authority to hear any disputes regarding the execution of the resulting judgment; the judge who rendered the judgment is also the judge responsible for addressing its execution. [3]

Therefore, whenever a dispute arises during the execution of a criminal judgment in cases of misdemeanors or petty offenses, the parties to the dispute—typically the party initiating the execution and the party against whom execution is sought—must apply to the judicial body that issued the judgment. It is possible for an individual to receive a judgment from the Misdemeanors Division imposing an enforceable sentence, and subsequently receive another judgment from the Petty Offenses Division—also imposing an enforceable sentence—for a different offense. In such a case, jurisdiction shifts to the Petty Offenses Division to apply the principle of merging or consolidating the sentences. This is stipulated in Article 14 of the Law on Prison Organization and the Reintegration of Inmates[4], and it is consistent with the established jurisprudence of the Supreme Court.

2- Jurisdiction of the Juvenile Justice System over Enforcement Issues

The determination of jurisdiction within the juvenile justice system is primarily based on the juvenile's age at the time the offense was committed, or whether the juvenile is in a situation that places them at risk of delinquency. The Juvenile Division has jurisdiction over offenses committed by individuals under the age of criminal majority, which is set at eighteen. A juvenile judge performs various functions regarding a delinquent juvenile, such as conducting investigations and issuing interim orders. Furthermore, the juvenile judge may be tasked with addressing issues that arise during the enforcement of judgments rendered by the Juvenile Division, in accordance with Articles 98 and 99 of Law 12/15 on Child Protection. Article 98 of the aforementioned law stipulates that the following shall have territorial jurisdiction to adjudicate all incidental matters and requests to modify measures taken regarding a child:

[2] - Nasreddine Aib, Imane Chaabna, "Challenges in the Execution of Criminal Judgments under Algerian and Egyptian Legislation," *Ma'alim Journal for Legal and Political Studies*, Issue 4, June 2018, p. 214.
[3] - Kacem Gouider, "Challenges in the Execution of Criminal Judgments," Master's Thesis in Criminal Law, Faculty of Law, University of Algiers (Benyoucef Benkhedda), 2012/2013, p. 57.
[4] - Article 14 stipulates: "Applications for the consolidation or joinder of sentences shall be submitted—following the same procedures specified in the preceding paragraphs of this article—to the last judicial body that imposed a custodial sentence."

- The juvenile judge or juvenile division that originally adjudicated the dispute.

- The juvenile judge or juvenile division within whose jurisdiction the child's parents reside, or where the employer, institution, or organization—to whom the child was entrusted by a judicial order—is located.

- The juvenile judge or juvenile division in the place where the child is actually being held or detained, subject to authorization from the juvenile judge or juvenile division that originally adjudicated the dispute.[5]

Second: Jurisdiction of the Indictment Chamber over Issues Arising from the Execution of Judgments:

The Indictment Chamber is a judicial body within the Judicial Council, primarily tasked with conducting investigations and issuing indictments. Furthermore, it serves as an appellate and supervisory authority over the judicial investigative proceedings carried out by the investigating judge, exercising this role through the decisions it issues. Under Algerian law, it functions as one of the chambers of the Judicial Council; its designation, its position within the Council, and its composition indicate that it is not an independent judicial entity. However, for the purposes of this discussion[6], it is significant that the Algerian legislator has granted it an exceptional jurisdiction to act as an adjudicating body—specifically, the authority to resolve issues (incidental disputes) arising from the execution of criminal judgments.

This is stipulated in Article 14, paragraph 4, of the Law on Prison Organization, which states: "The Indictment Chamber shall have jurisdiction to correct clerical errors and to rule on incidental requests related to the execution of judgments rendered by the Criminal Court." Consequently, the Algerian legislator has created an exception to the general rule—which typically vests jurisdiction in the judicial body that issued the original judgment or decision—by assigning the resolution of incidental disputes concerning judgments of the Criminal Court to the Indictment Chamber. This is because the Criminal Court does not sit on a permanent basis and cannot be reconvened once its criminal session has concluded.[7]

Section Two: Procedures for Filing an Objection to the Execution of a Judgment

An objection to the execution of a judgment is subject to a set of conditions and procedures designed to ensure its seriousness and prevent it from being used as a pretext to unjustifiably obstruct the enforcement of criminal judgments. These requirements include the objector possessing the necessary legal standing and a legitimate interest, the existence of a genuine issue regarding the execution, and adherence to procedural rules concerning the competent authority, the manner of filing the objection, and the process for its adjudication. Consequently, an

[5] - Article 98 of Law 12/15, dated 28 Ramadan 1436 (corresponding to July 15, 2015), on the Protection of the Child.
[6] - Kacem Gouider, op. cit., p. 55.
[7] - Nasreddine Aib, Imane Chaabna, op. cit., p. 216.

examination of the requirements and procedures for filing such an objection necessitates, first, an outline of the necessary conditions, and second, an explanation of the procedures for filing the objection.

First: Conditions for Filing an Objection to the Execution of a Criminal Judgment

These are the prerequisites that must be met for a court to consider the objection. If any or all of these conditions are absent, the objection is deemed inadmissible, and the court will issue a ruling to that effect. Among these conditions are:

A. Legal Standing (Capacity): This refers to the requirement that the person filing the objection must be the party legally entitled to do so; an objection cannot be accepted from someone who lacks the requisite standing. The Algerian legislator has specified, in Article 14 of the Law on Prison Organization, the individuals authorized to file such an objection: the Prosecutor General, the Public Prosecutor, the Judge for the Enforcement of Sentences, the convicted person, or their legal counsel.[8]

The Prosecutor General (at the level of the Judicial Council—where the competent authority is the Criminal Chamber or the Indictment Chamber) or the Public Prosecutor (where the competent authority is the Court) may initiate the objection on their own motion, without requiring a request from the convicted person. Furthermore, the Judge for the Enforcement of Sentences also possesses the standing to file an objection[9]; given their role in overseeing the execution of sentences, if they identify an issue, they may refer the matter to the competent authority for a resolution.

Finally, the person against whom a judgment is being enforced may logically file an objection (or "challenge to enforcement") regarding that judgment. Their lawyer may act on their behalf in this matter, as the legislator has granted the lawyer the legal standing to file such an objection to the enforcement of a criminal judgment on behalf of their client.[10]

B. Interest: An "interest" is one of the fundamental bases upon which any legal action must rest; there can be no legal action without an interest. Many legal systems require that the interest be personal, direct, and actually, concretely established. A legal action cannot be accepted by the judiciary unless such an interest is proven. Whether or not an interest exists for the party raising an objection is a matter that falls primarily within the discretionary power of the trial court—the sole authority empowered to assess the existence of such an interest, based on the objector's claims regarding the facts of the case.[11]

Second: Procedures for Filing an Objection to the Execution of a Criminal Judgment

[8] - Gharbi Brahim, "The Execution of Criminal Judgments under Algerian Law," *Journal of Studies and Research (Arab Journal for Humanities and Social Sciences)*, Vol. 14, No. 3, July 2022, p. 195.
[9] - Nasreddine Aib, Imane Chaabna, op. cit., p. 206.
[10] - Kacem Gouider, op. cit., p. 80.
[11] - Gharbi Brahim, op. cit., p. 195

The Algerian legislator, under Article 14 of the Law on the Organization of Prisons and the Reintegration of Detainees, stipulates that incidental disputes arising from the execution of criminal judgments must be brought before the competent judicial authority by way of a formal request.

Consequently, the initial step in bringing an objection before the court is the submission of a request—whether by the Public Prosecution, the judge for the enforcement of sentences, the convicted person, or a third party. This request serves as the instrument through which the right to file an objection to the execution is exercised. However, the Algerian legislator has not prescribed a specific, rigid form for the request or petition used to seize the competent authority of such an objection. In the absence of a prescribed form, the general rules set forth in the Code of Civil and Administrative Procedure shall apply.[12]

Accordingly, an objection to the execution is initiated by submitting a request to the competent court. If the request is filed by the Public Prosecution, it must summon the convicted person to appear directly before the competent court, in accordance with the procedures stipulated in Articles 472 and 473 of the Code of Criminal Procedure. If the matter concerns the Indictment Chamber, the rules applicable to proceedings before that body must be followed. The latter shall prepare the case file within five days and notify the opposing parties of the hearing date via registered mail, instructing them to submit their memoranda to the clerk's office of the Indictment Chamber—in accordance with Article 183 of the Code of Criminal Procedure—after granting them access to the case file held by the clerk's office.

If the application is submitted by the judge for the enforcement of sentences, the convicted person, or their counsel, it must be filed with the clerk's office of the competent authority, specifying the nature of the issue or dispute. A hearing date shall then be set to address the matter. Furthermore, the application must be referred to the Public Prosecution, which is required to submit its written submissions within eight days from the date the case is referred to it.[13]

Third: Effects of an Objection to Enforcement in Criminal Matters

The filing and subsequent acceptance of an objection to enforcement by the competent authority give rise to significant legal and procedural consequences. Once the objection meets all legal requirements, the court with jurisdiction over the dispute must rule upon it within the scope of its authority. This process does not extend to

12 - Article 1 of the Code of Civil and Administrative Procedure stipulates that "the provisions of this Code shall apply to cases brought before ordinary judicial bodies and administrative judicial bodies." Amina Hawalef, *Issues in the Enforcement of Criminal Judgments*, Master's thesis in Criminal Sciences and Criminology, Faculty of Law, Abou Bekr Belkaid University of Tlemcen, 2009/2010, p. 331.

13 - Mohamed El-Amine Ben Slimane and Abderrahmane Khelfi, *op. cit.*, p. 58.

addressing the merits of the underlying right in dispute, nor does it permit the reopening of the case that led to the judgment being enforced; an objection to enforcement is not a form of appeal against a judgment, but rather a mechanism to address obstacles or disputes that arise during the enforcement process.

Furthermore, depending on the nature of the dispute and the relevant judicial authority, the filing of an objection to enforcement may result in a stay of execution—provided that the legal conditions justifying such a measure are met when the objection is adjudicated.

1- The Court's Authority to Stay Execution:

Article 14 of the Law on Prison Organization establishes the authority of the judicial body to stay the execution of a judgment, stating: "The judicial body may order a stay of the judgment or take any measure it deems necessary pending a resolution of the dispute, provided that the individual concerned is not currently incarcerated."[14]

It is evident from this provision that the legislator has granted the competent judicial authority the power to take an exceptional measure—namely, staying the execution of a judgment or implementing any other necessary measure (the nature of which is left to the court's discretion)—until the dispute regarding the execution is resolved. Consequently, the mere raising of an objection to execution does not automatically result in a stay; rather, it depends on the judicial body's assessment and its conviction regarding the seriousness of the objection and the necessity of a temporary stay. This framework seeks to strike a balance between upholding the authority (res judicata) of judicial decisions and ensuring their effective enforcement, while simultaneously avoiding the adverse consequences that might arise from continuing to execute a judgment that is subject to a serious legal challenge.

It should be noted that the Algerian legislator has stipulated that the person against whom the judgment is rendered must not be incarcerated for the competent authority to order a stay of execution—as indicated by the phrase "provided that the individual concerned is not currently incarcerated." Thus, the legislator has limited the authority to stay execution exclusively to cases involving custodial sentences (deprivation of liberty). Conversely, if the individual is already incarcerated, the court may not order a stay of the custodial sentence. [15]

2. The Public Prosecution's Authority to Stay Execution

As the authority legally empowered to enforce criminal judgments—acting as the entity responsible for execution, in accordance with Article 10 of the Algerian Law on Prison Organization, which stipulates that "the Public Prosecution alone is responsible for overseeing the execution of criminal judgments"—the Public

[14] - Article 14 of Law 05/04, dated 27 Dhu al-Hijjah 1425 AH (corresponding to February 6, 2005 AD), concerning the organization of prisons and the social reintegration of inmates.
[15] - Amina Hawalef, *op. cit.*, p. 136.

Prosecution is the body that inevitably confronts any obstacles or complications that may arise during the enforcement process. Consequently, within the framework of execution procedures, the Public Prosecution must address such issues as they emerge.[16]

Accordingly, while carrying out a criminal judgment or decision, the Public Prosecution may order a temporary stay of execution—either upon the submission of an objection or prior to the Public Prosecution itself referring the matter to the competent court. This authority should not be exercised in an unrestricted manner; rather, it must be reserved for cases of necessity, contingent upon the significance and seriousness of the dispute. Such circumstances—which justify a stay of execution—include the emergence of a subsequent impediment that precludes enforcement, doubts regarding the identity of the convicted person, the extinguishment of the penalty (e.g., through a pardon or the statute of limitations), or the surfacing of new facts that render the execution, in its current form, impermissible.[17]

It is not permissible for the Public Prosecution to order a stay of execution based on grounds that existed prior to the judgment, nor on the possibility that the challenged judgment might be overturned by the competent court; doing so would constitute an encroachment upon the merits of the case, which is not permitted within the scope of an objection to execution. However, once a court is seized of an objection to execution, it alone holds the authority to decide whether to proceed with or stay the execution.

At this stage, the Public Prosecution becomes a party to the proceedings, limited to submitting requests to the court as it deems appropriate, without the authority to issue any decisions regarding the execution. Consequently,

the Public Prosecution is divested of the power to exercise its authority to stay an execution.[18]

Conclusion:

The study of "challenges to the execution of criminal judgments" (procedural objections during the enforcement phase) reveals that this is a significant legal mechanism established by the legislator to address difficulties that may arise during the enforcement of criminal judgments and decisions. It serves to strike a balance between, on one hand, upholding the authority of judicial rulings and ensuring their execution, and, on the other, protecting the rights of the convicted person and other parties involved in the enforcement process.

16 - Kacem Kouider, *op. cit.*, p. 92.
17 - Farida Ben Younes, *The Enforcement of Criminal Judgments*, doctoral thesis in Criminal Law, Faculty of Law and Political Science, Mohamed Khider University of Biskra, 2013/2014, p. 256.
18 - Farida Ben Younes, *op. cit.*, p. 266.

The research demonstrates that such challenges do not concern the merits of the criminal judgment itself, nor do they allow for a reconsideration of its validity. Rather, they pertain to difficulties or factual circumstances that emerge during the enforcement phase—factors that affect the manner of execution or the feasibility of continuing it. Consequently, the use of this mechanism must remain strictly within the scope for which it was intended, ensuring it does not become a tool to obstruct judgments or undermine their enforceable power.

Furthermore, the legislator has empowered the competent judicial authorities to review challenges raised during enforcement and to take appropriate action—including the suspension of enforcement, provided that the necessary legal conditions and justifications are met. Such a suspension must be based on serious grounds directly related to the difficulties of enforcement, while remaining mindful of the judgment itself, the requirements of justice, and the protection of rights.

Ultimately, the effectiveness of the system for challenging the execution of criminal judgments depends on maintaining a balance between the requirements for the actual enforcement of criminal rulings and the safeguards afforded to the convicted person. This necessitates that the mechanism be governed by precise procedural and substantive criteria to prevent its misuse. Consequently, it can be stated that the "objection to enforcement" (or "challenge to the execution of a judgment") serves as a significant procedural safeguard during the phase of criminal sentence enforcement. It contributes to rectifying the enforcement process and addressing any difficulties that may arise, without becoming an indirect means of challenging the criminal judgment itself or unjustifiably obstructing its effects.

Recommendations:

We recommend that the Algerian legislator reorganize the provisions concerning the enforcement of criminal judgments within the Code of Criminal Procedure, rather than within the law governing the organization of prisons and the social reintegration of inmates.

The legislative framework governing objections to the enforcement of criminal judgments should be revisited to eliminate ambiguities that lead to conflicting interpretations of legal provisions and inconsistent judicial applications.

It is essential to leverage judicial precedent to further develop the rules regarding objections to enforcement—specifically by establishing clear principles concerning the criteria for the admissibility of such objections and the standards for staying the enforcement of a judgment.

References:

Laws:

Law No. 05/04 of February 6, 2005, concerning the organization of prisons and the social reintegration of inmates, Official Gazette No. 12, dated February 13, 2005.

Law No. 25/14, dated 9 Safar 1447 (corresponding to August 3, 2025), concerning the Code of Criminal Procedure.

Law No. 15/12, dated 28 Ramadan 1436 (corresponding to July 15, 2015), regarding the protection of the child.

Articles:

- Ben Slimane Mohamed El-Amine and Abderrahmane Khelfi, "Issues in the Enforcement of Criminal Judgments," *Journal of Studies on the Effectiveness of Legal Norms*, Vol. 04, No. 02, 2020.

- Nasreddine Aib and Imane Chaabna, "Challenges in the Enforcement of Criminal Judgments under Algerian and Egyptian Legislation," *Ma'alim Journal for Legal and Political Studies*, No. 4, June 2018.

- Gharbi Brahim, "The Enforcement of Criminal Judgments under Algerian Law," *Journal of Studies and Research (Arab Journal for Humanities and Social Sciences)*, Vol. 14, No. 3, July 2022.

Academic Theses:

- Kacem Kouider, "Challenges in the Enforcement of Criminal Judgments," Master's thesis in Criminal Law, Faculty of Law, University of Algiers (Benyoucef Benkhedda), 2012/2013. Farida Ben Younes, *The Execution of Criminal Judgments*, a thesis submitted for the degree of Doctor of Science in Criminal Law, Faculty of Law and Political Science, Mohamed Khider University of Biskra, 2013/2014.

Haoualef Amina, *Issues in the Execution of Criminal Judgments*, a dissertation submitted for the degree of Master of Science in Criminal Law and Criminology, Faculty of Law, Abou Bekr Belkaïd University of Tlemcen, 2009/2010.