

JUDICIAL OVERSIGHT OF PUNITIVE TREATMENT IN OPEN ENVIRONMENTS UNDER LAW NO. 05-04: THE CASE OF EXTERNAL WORKSHOPS AND THE SEMI-FREEDOM AS A MODEL

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Abstract:

The Algerian legislator has established a system of judicial oversight over the implementation of punishments, assigning this responsibility to the sentencing enforcement judge under Law No. 05-04. The judge is granted a range of powers concerning the administration of punitive measures within an open environment. This system serves as a complement to the closed penal environment, allowing convicts to benefit from tailored reform and rehabilitation programs suited to their individual conditions and aimed at positively shaping their behavior. When the necessary conditions are met, the convict may benefit from alternative measures such as the external workshop system or the semi-freedom model—both of which constitute the focus of this study. These measures are authorized and monitored by the sentencing enforcement judge, who ensures their proper implementation with the ultimate goal of rehabilitating the offender, facilitating their social reintegration, and reducing the likelihood of reoffending.

Key words: Punitive treatment, Open environment, Prisoner, Reform and rehabilitation, Social reintegration, Judge implementing punishments, External workshops, Semi-freedom.

INTRODUCTION:

Judicial intervention during the execution of a sentence serves as both a safeguard for the rights of the convict and a fundamental necessity for the realization of modern punitive policy objectives. Recognizing the importance of judicial oversight in the implementation of criminal penalties, many comparative legal systems, such as the Italian and French, have affirmed this principle. In line with these developments, the Algerian legislator has adopted a similar approach by establishing a framework for judicial oversight during the enforcement phase of punishment. This began with Ordinance No. 72-02, which introduced a law for the organization of prisons and the rehabilitation of inmates, and appointed a '*judge for the enforcement of penal sentences*.' However, this ordinance was later repealed and replaced by Law No. 05-04, the Prison Regulation and Social Reintegration Law. Under this law, the title was changed to '*judge of sentence implementation*,' and their powers were significantly expanded.

These expanded powers primarily focus on the oversight and regulation of punitive treatment procedures, which include various correctional measures aimed at fulfilling the goals of contemporary penal policy. This applies both within closed institutions and in open environments, the latter exemplified by external workshops, the semi-freedom model, and open-environment institutions. These systems are applied to inmates who have responded positively to punitive treatment within the closed environment, making the open environment a final, transitional phase designed to gradually prepare the prisoner for successful reintegration into society.

The significance of this topic lies in its focus on a crucial phase of criminal justice: the implementation of criminal punishment in an open environment, a stage during which human rights must be respected and the legal status of the detainee must be upheld. At the same time, efforts must be directed toward reforming the offender and facilitating their reintegration into society. This context renders the adoption of judicial oversight not merely beneficial, but an urgent

necessity, ensuring that this process is properly supervised by the judge responsible for enforcing penalties.

To explore this issue, we posed the following central research question: *Has the Algerian legislator succeeded in establishing an effective system of judicial oversight over the implementation of punitive treatment in open environments, by granting the sentencing enforcement judge the necessary powers to achieve prisoner rehabilitation and social reintegration?*

To address this question, we adopted a descriptive-analytical approach, focusing primarily on the legal framework governing the judge responsible for enforcing punishments and the various methods of punitive treatment applied in open environments. This included a detailed analysis of the legal texts regulating prison administration and the social reintegration of prisoners. The study also incorporates a comparative dimension, contrasting the former and current Algerian penal legislation, to highlight the evolution of penal policy in Algeria and to identify the shortcomings of Ordinance No. 72-02, as well as the extent to which these were addressed by Law No. 05-04.

To address this research problem, we have structured our study into two main sections, preceded by an introduction that lays the foundation for the topic. The study concludes with a general conclusion, presenting the key findings we have reached along with a set of recommendations.

First Section: The Judge Responsible for the Implementation of Sentences in Algerian Legislation

- *First Subsection: Definition and Nature of the Judge Responsible for Sentence Implementation in Algerian Law*
- *Second Subsection: The Legal Status and Role of the Sentence Implementation Judge in Algerian Legislation*

Second Section: The Role of the Sentence Implementation Judge in the Open Environment

- *First Subsection: The Judge's Role within the External Workshop System*
- *Second Subsection: The Judge's Role within the Semi-Freedom Model*

First Section: The Judge Responsible for the Implementation of Sentences in Algerian Legislation

Judicial oversight represents a direct legal mechanism of control over penal institutions and incarcerated individuals. It serves as a safeguard for individual freedoms and as protection of the rights granted to inmates during the execution of punitive measures. Based on this importance, we aim to highlight the nature of the judge assigned to this task (First Subsection) and the criteria for their selection and legal position (Second Subsection).

First Subsection: Definition and Nature of the Judge Responsible for Sentence Implementation in Algerian Law

In order to understand the nature and function of the sentence implementation judge, it is essential to begin with a definition of the role (First Point), followed by a discussion of the appointment process (Second Point).

1.1. Definition of the Sentence Implementation Judge

The Algerian legislator has adopted a modern approach that emphasizes the necessity of judicial involvement in the enforcement of custodial penalties. However, neither Ordinance No. 72-02 nor Law No. 05-04 provides an explicit definition of the sentence implementation judge. Instead, the legislator leaves this to legal doctrine and judicial practice, merely outlining the functions of the role. Legal scholars have generally defined the sentence implementation judge as: "A judicial figure responsible for overseeing the execution of criminal penalties imposed on convicted individuals

within penal institutions under their jurisdiction. This judge determines, on a case-by-case basis, the appropriate methods of punitive treatment, including measures such as placement in an open environment, the semi-freedom model, exit permits, and other alternatives. "¹

By analyzing Articles 22 and 23 of Law No. 05-04 on the Organization of Prisons, we can infer a working definition of the sentence implementation judge in Algerian law. This judge is legally authorized to exercise judicial oversight over the enforcement of criminal penalties, including both custodial sentences and alternative sanctions, whether inside or outside the penal institution. Their primary responsibility is to follow up on convicted individuals and determine the most appropriate punitive treatment methods tailored to each case, with the ultimate goal of ensuring effective rehabilitation and social reintegration. Previously, Article 7 of Ordinance No. 72-02 stated that the judge's role was limited to overseeing the execution of criminal rulings. This included the specification of applicable penalties, the types of treatment, and monitoring how these measures were implemented.

However, Article 23 of Law No. 05-04 expanded this role by explicitly stating that the sentence implementation judge is tasked with monitoring the legality of both custodial and alternative penalties. The judge must also ensure the proper application of individualized sentencing measures, in line with modern penal philosophy. Although the Algerian legislator did not provide an explicit definition of the sentence implementation judge in the text of the law, their broad powers, as established through various provisions, reflect the judge's essential function in overseeing punitive treatment. These powers play a crucial role in ensuring the legality, fairness, and effectiveness of the enforcement process. ²

1.2. hiring a judge application Penalties

The sentence implementation judge is appointed by a decision from the Minister of Justice, the Keeper of the Seals, and is selected from among the judges classified within the Judicial Council. The appointment is made based on the judge's knowledge and specific attention to the field of prisons. There is no fixed term for this appointment. According to Article 22 of the Law on the Organization of Prisons and Social Reintegration of Prisoners, the appointment is made through a resolution by the Minister of Justice, with the Judicial Council selecting one or more judges to perform the duties of the sentence implementation judge.

Furthermore, as per Article 7 of Law No. 05-04, the Judicial Council appoints one or more judges from its specialized circle to apply criminal rulings. This appointment is made for a term of three years, renewable. The Judicial Council may, in cases of urgency, delegate the duties of the sentence implementation judge to a temporary appointee from its specialized circle. Additionally, Article 04 of Executive Decree No. 05-180, issued on May 17, 2005, outlines the formation of the Sanctions Implementation Committee and details its operational framework. ³

It was stated that in the event of a vacancy for the sentence implementation judge position, the president of the Judicial Council may appoint a replacement. This appointment is made based on a request from the Judicial Council's deputy. The appointed judge must meet the required qualifications and can only serve for a period not exceeding three months, with the condition of notifying the relevant central management within the Ministry of Justice. This temporary appointment can be made in urgent cases, and the new Law No. 05-04 does not specify a fixed term

¹George Levasseur, Albert Chavane, Jean Montreuil, Bernard Bouloc, *General Criminal Law and Criminal Procedure*, 13th edition, Sirey Publishing, 1999, p. 341.

²Boukhalifa (Faisal), *Judicial Supervision of the Implementation of Criminal Sanctions in Algerian Legislation*, Master's Thesis in Legal Sciences, University of Hajj Lakhdar, Batna, Faculty of Law and Political Science, 2011-2012, p. 37.

³Executive Decree No. 05-180, issued on May 17, 2005, defining the composition of the Committee for the Implementation of Sanctions and how it operates.

for the sentence implementation judge's appointment, thus leaving the position open-ended. Additionally, it removes the authority of the Judicial Council's deputy to make temporary appointments in urgent cases. The law also outlines conditions to be met by the judge candidate for this role, including criteria for appointment and eligibility for renewal. The Minister of Justice is responsible for issuing decisions regarding new appointments, emphasizing the importance of filling the position appropriately.

Second Subsection: Standards and Conditions for Selecting the Sentence Implementation Judge and Their Position

Given the specificity of the sentence implementation judge's role, which involves overseeing, supervising, and ensuring the legality of custodial and alternative penalties, as well as ensuring the proper application of individualized sentences, we will examine the selection criteria and the judicial status of this judge.

1.2.1. Standards and Conditions for Selecting the Sentence Implementation Judge

Regarding the selection criteria for the sentence implementation judge, we find that Order No. 72-02 did not address this issue. However, Law No. 05-04 provides a clear definition of the conditions required for the position, as stated in Article 22, Paragraph 2. This article specifies two main conditions:

1. **Rank Requirement:** The candidate must be classified within the **Judicial Council's ranks**, at a minimum, and could include judges from the **Public Prosecution (Deputy General, Assistant Deputy General)** or **Judicial Councils (presidents, advisors, or chamber presidents)**.
2. **Specialization in Prison Affairs:** The candidate must have a specific interest and experience in the **prison sector**, demonstrating a particular focus on correctional practices.

The legislator, however, did not set specific, unified standards for this selection process. As a result, the Judicial Council has the discretion to make the final decision. Public Prisons Directorate at the Ministry of Justice, under the previous law, provided some guidelines for selecting a sentence implementation judge through a memorandum dated December 19, 2000. This memorandum outlined the following conditions:

- The judge should have a particular focus on **prison affairs**.
- The judge should be one of the **best and most experienced** judges.
- A **detailed report** justifying the appointment should accompany the nomination.
- The judge must be able to dedicate themselves fully to the role, without engaging in any other duties unless absolutely necessary.⁴

The Second Symposium for Judges, held at the *Club de Pin* on February 23-25, 1991, added additional standards and conditions for selecting the sentence implementation judge, including:

- The necessity for the judge to specialize in **criminal law**, with a focus on **criminology**, **criminal science**, and **punishment science**.
- The judge must have at least **four years of distinguished service** in the judiciary.
- The selection should be based on the judge's **personal interest** and commitment to the role.⁵

⁴Klanmer (Asmaa), The Innovative Mechanisms and Methods for Re-education and Social Reintegration of Prisoners, Master's Thesis, University of Algiers 1, Faculty of Law, 2011-2012, p. 72.

1.2.2. status of a judge Application Penalties

Opinions have differed regarding the status of the sentence implementation judge within the judicial hierarchy. The prevailing view under the repealed Order 72-02 was that the sentence implementation judge was considered part of the Public Prosecution. This was due to the authority granted to the Judicial Council's representative to appoint a judge in urgent cases. The selection of the sentence implementation judge from among the Public Prosecution members raised issues regarding their independence, as the Minister of Justice appointed them, subjecting their role to a gradual dependency. Consequently, the judge could not exercise their duties independently.

The selection of the sentence implementation judge from the Public Prosecution also raised concerns over decisions made by this judge. Specifically, appeals regarding decisions made by the sentence implementation judge could be filed by either the Public Prosecution or the Minister of Justice before the Penalties Committee. In the event of the Judicial Council's deputy being absent or the appointment expiring, the responsibility would pass to the deputy to issue a decision based on the sentence implementation judge's role, which led to challenges in considering the sentence implementation judge as a part of the Public Prosecution.⁶

The latest perspective adds a distinctive characteristic to the **sentence implementation judge**, equating them to a **ruling judge**, since decisions made by this judge may be appealed. These decisions include granting temporary suspension of punishment, conditional release, and leave for exit, which are subject to review by the **Penalties Committee**, with appeals coming from the **Judicial Council's deputy**, the **prisoner**, or the **Minister of Justice**, depending on the circumstances. The **sentence implementation judge** is appointed in case of vacancy by the **President of the Judicial Council**, which places them closer to the ruling judges. However, the authority to review decisions made by the **sentence implementation judge** lies with other judicial bodies, meaning the sentence implementation judge cannot be considered a ruling judge. Although there could be a point of intersection between the sentence implementation judge and ruling judges in terms of implementation issues, these two areas have not yet fully converged. The Algerian judicial model, which deals with the implementation of sentences, clearly distinguishes between the authority of the ruling judge or decision-maker and the sentence implementation judge. The latter does not interfere in this process unless requested by the judicial authority, with their role being limited to the public prosecutor, the convict, or the lawyer in the matter.⁷

Starting from the legal center, it is evident that the sentence implementation judge occupies a unique position, as they are closely related to both judges of the prosecution and ruling judges simultaneously. The Algerian legislator has defined the role of the sentence implementation judge as a specialized position under Article 50 of Law No. 11-04, issued on 06/09/2004, which outlines the basic provisions for its establishment.⁸ The sentence implementation judge holds a specialized position, and the office of the sentence implementation judge is structured to facilitate the practice of their duties within all punitive institutions. This structure supports the judge in carrying out their tasks, with assistance from the deputy of the Judicial Council. The judge participates in committee meetings, drafts lectures, records decisions, and manages notifications, mail, and files. Additionally, the judge receives appeals and requests from prisoners who wish to intervene within the scope of the Penalties Application Committee. The judge also renders decisions, although they

⁵Ben Sheikh (Nabila), "The Judge of Punishment Implementation: Between Limitations and Development Prospects," *Journal of Human Sciences*, University of Constantine, Volume 33, Issue 1, 2020, p. 233.

⁶Masoudi (Karim), "The Legal System of the Judge of Punishment Implementation in Algerian Legislation," PhD Thesis, University of Dr. Moulay Taher, Saïda, Faculty of Law and Political Science, 2019-2020, p. 127.

⁷Ben Sheikh (Nabila), *op cit*, p. 234.

⁸Organic Law No. 04-11 dated 21 Rajab 1425, corresponding to September 6, 2004, concerning the Judicial Authority's Statute, Official Gazette, No. 57, published on 08/09/2004.

do so without having a vote in the committee's deliberations ⁹. These properties and privileges granted to the sentence implementation judge make the institution self-sustaining.

The second requirement: Role of the judge in applying penalties in the open environment

The semi-annual freedom system and the external workshop system are among the most important modern punitive treatment methods. These methods align with the current goals of penal policy, which are established and ensured by the sentence implementation judge. This will be clarified by addressing the situation in the external workshop system (first subsection) and the semi-freedom system (second subsection).

First Subsection: The situation in external workshops

The external workshop system is one of the most important punitive methods based on the trust granted to the prisoner. The situation in this system can be beneficial when specific conditions are met (first), and it is essential to consider the placement procedures and their effects (second).

2.1. The situation in the external workshop system and its conditions

The Algerian legislator defined the system of placement in external workshops in Article 100 of Law No. 05-04, which states that the convict can work outside the punitive institution under the monitoring of the prison administration and other general bodies and institutions. The prisoner can perform work under similar terms to those in private institutions, contributing to projects of general utility. Article 101 of the same law stipulates that a set of conditions must be met for a prisoner to benefit from the external workshop system. These conditions are not only related to the prisoner's sentence but also to the individual's conduct and the time remaining on their sentence. Specifically, the prisoner must:

- Have served 1/3 of their sentence if they are a first-time offender.
- Have served half of their sentence if they are a habitual offender.

The prisoner may also benefit from a presidential pardon issued during national or religious holidays, which may reduce their sentence. However, benefiting from the external workshop system is not limited to meeting the legal condition of the test period alone. Additional criteria must be met to ensure the system achieves its goals. According to Article 100 of Law No. 05-04, these basic requirements are as follows:

- The system applies to convicts who have proven themselves trustworthy.
- The convict must have served a specific period in the closed environment (with exceptions for temporary imprisonment).
- The convict must have a good character and a healthy physical condition. Only healthy prisoners who do not suffer from chronic diseases should be eligible for this system. ¹⁰
- The prisoner eligible for work in the external workshop system must have a good record and behavior, and must have complied with the established methods of punitive treatment without having previously violated the rules of the punitive institution ¹¹, based on what is stipulated in Article 124 of the internal regulations of penal institutions.

⁹Article 05 of Executive Decree No. 05-180 specifying The composition of the sanctions implementation committee and how it works .

¹⁰Senkouka (Saeih), "The Judge of Penalty Enforcement or the Social Institution for the Reintegration of Prisoners: Between Reality and Law under Algerian Legislation - An Evaluative Practical Perspective," no edition number, Dar Al-Huda, Algeria, 2013, p. 89.

¹¹Khouri (Omar), "Penal Policy in Algerian Law - A Comparative Study," 1st edition, Dar Al-Kitab Al-Hadith, Cairo, 2010, p. 383.

- The work is under the supervision of the prison administration, ensuring proper monitoring of the convict during their work to protect their rights and prevent them from engaging in unauthorized activities. This ensures the work in external workshops fulfills its intended purpose and prevents any violations of the agreement or obligations.
- The work is conducted within specified terms, differing from the semi-freedom system, which allows the beneficiary to leave the penal institution independently for purposes such as education, treatment, or employment.
- The work is done for public bodies and state-controlled institutions, though an exception allows the customization of the work for certain private institutions.¹² However, it is required that these institutions aim to carry out projects that serve general utility.

The law that organizes prisons and cancels Order No. 72-02 excluded the private sector from benefiting from penal labor. Article 143 of the former law stated that the external workshop system involves the use of convicts, under the monitoring of the prison administration, for works benefiting public departments, groups, and institutions. The private sector was excluded from this arrangement. However, the Algerian legislator, under Law No. 05-04, now allows the use of penal labor in both the public and private sectors, provided it is under the supervision of the prison administration. This change acknowledges the growing role of the private sector in contributing to the national economy alongside the public sector.

2.2. Procedures for Placement in the External Workshops System and Their Effects

The process for placing a prisoner in the external workshop system begins after the sentence has been determined. The prisoner who wishes to benefit from the external workshop system must submit an application for employment in the external workshops, either to the head of the penal institution or to the judge applying penalties. The application is then reviewed, and a file is prepared for the external workshop system, provided the necessary conditions are met. The application is referred to the Penalties Application Committee, which will express its opinion on whether to accept or reject the request.¹³

The authority responsible for approving the use of penal labor, whether it is from a public or private sector institution, must submit a request to the judge applying penalties. The judge, in turn, refers the request to the Penalties Application Committee to express its opinion. If the conditions are met, the judge then orders the formation of a file for the external workshop system. After obtaining consent, the relevant authority determines the terms and conditions for both public and private sectors regarding the use of penal labor. The agreement is signed by both the head of

"The penal administration continues to apply the rules of maintaining order to the prisoner placed in the external workshop system during the period of work outside the institution. In case of violation of obligations, disciplinary measures as stated in Article 83 of the Law on the Organization of Prisons and the Social Reintegration of Prisoners No. 05-04 are imposed."

¹²Article 100, Paragraph 2, of the Law on the Organization of Prisons No. 05-04, dated 06/02/2005, which includes the Law on the Organization of Prisons and the Social Reintegration of Prisoners, Official Gazette, Issue 12, 2005.

¹³This was not the case under the repealed Ordinance No. 72-02, where such requests were directed to the Minister of Justice, who would then endorse them and return them to the Judge of Penal Enforcement for their opinion. The request would then be sent back to the Minister of Justice along with recommendations for the use of penal labor after study. The final decision regarding the approval or rejection of these requests was made by the Minister of Justice. See: Article 143 of Ordinance No. 72-02, dated 25 Dhul-Hijjah 1391 AH, corresponding to February 10, 1972, regarding the Organization of Prisons and the Reformation of Prisoners, Official Gazette, Issue 15, published on 7 Muharram 1392 AH, corresponding to February 22, 1972.

the penal institution and the authority requesting the use of the labor.¹⁴ On the other hand, the process is overseen by the Director of the National Court for Educational Works, who works under the Public Directorate for Prison Management and Social Reintegration. The agreement is signed on behalf of the penal institution's administration.¹⁵

The role of the judge applying penalties has become more limited than before. Under the repealed Order No. 72-02, the judge was responsible for studying requests and presenting suggestions. However, under the new law, the judge's role is restricted to receiving requests and referring them to the Sanctions Implementation Committee. If approved, the agreement is signed by the head of the penal institution. Consequently, the decision issued by the judge in the implementation of sanctions becomes a mere formal procedure. The process may involve requests being directed to either the head of the penal institution or the judge applying penalties. Once responses are received from the Public Prosecution and the Public Directorate for Prison Management, the requests, provided they comply with the law, will be processed by the Committee as a regular order, as outlined in Article 103 of Law No. 05-04.¹⁶

The Algerian legislator has restricted the submission of requests for the allocation of penal labor to public or private institutions, making the application of this system dependent on the interest of these bodies in utilizing penal labor. This limitation does not align with the system of placement in external workshops, which is one of the most important methods aimed at reforming, rehabilitating, and socially integrating prisoners. Its application is crucial and cannot be disregarded due to the absence of requests for penal labor allocation. Therefore, the Director of Correctional Institutions and the National Office for Educational and Vocational Works must actively seek out various public and private institutions and offer correctional labor services within legal conditions and procedures. This effort is essential to expand the application of this system, particularly given the shortage of workshops affiliated with correctional institutions and their limited capacity.

Once the necessary procedures are completed, the reintegration process at the penal institution, supervised by the judge enforcing penalties, begins. The judge selects a group of prisoners who meet the legal and objective requirements. The process follows a formal request presented by the interested authority for the use of penal labor. A detailed file is then formed for each prisoner, including the following documents:

- Request submitted by the prisoner
- Partial status card
- Judicial record card (coupon number 02)
- Good behavior certificate
- Medical certificate confirming the prisoner's eligibility to perform work tasks

This file is then presented to the Sanctions Implementation Committee, chaired by the judge enforcing penalties, and reviewed by all committee members. The file is assessed based on its compliance with legal and objective requirements. When the required terms and conditions are met, the case is put to a vote. If the majority of committee members approve, the decision is made

¹⁴This is what Article 103 of the Prison Organization Law No. 05-04 stipulates, stating: "Requests for the allocation of penal labor are submitted to the Judge of Penal Enforcement, who, in turn, refers them to the Penal Enforcement Committee for their opinion. In the case of approval, an agreement is concluded with the requesting body, which defines the general and specific conditions for the use of prisoners' labor. The agreement is signed by both the Director of the penal institution and the representative of the requesting body."

¹⁵ Senkouka (Saeih), *op. cit.*, p. 90.

¹⁶ Senkouka (Saeih), *op. cit.*

to include the prisoner in the external workshop system, and the General Directorate of Prison Administration is notified.

The head of the penal institution then forwards the names of prisoners approved for the program to the National Office for Educational and Vocational Works in the Public Directorate for Prison Management and Reintegration. The office takes the following actions:

1. Concludes the agreement with the interested party for the use of penal labor, with the agreement prepared in six copies: one for each contracting party, one for the Director General of Prison Administration (for records), one for the director of the concerned institution (for implementation), and one for the judge enforcing penalties (for follow-up).
2. Forwards a copy of the agreement to the concerned parties, each according to their responsibilities.
3. Collects financial amounts resulting from the performance of services, which are then forwarded to the penal institution for distribution to the prisoners participating in the system.

The contract also includes important terms for clarity and mutual understanding, such as:

1. Appointment of the authority responsible for expenses related to transport, nutrition, and the guarding of prisoners.
2. Identification of the contracting parties.
3. Specification of the number of prisoners and their designated work locations and durations.
4. Responsibilities of the authority, particularly concerning the guarding, shelter, and feeding of prisoners, as well as compensation for any work-related accidents or occupational diseases.
5. Determination of rewards for prisoners based on their work, with the penal institution adjusting and allocating payments.
6. Submission of times and conditions for work under the applicable laws.
7. Commitment of the authority to follow instructions and maintain order as issued by the judge, enforcing penalties.

Once a prisoner is placed in the external workshop system, they leave the penal institution in the morning to join the workshop for the agreed-upon work hours. The prisoner returns to the institution in the evening, with mobility during work hours and rest periods under the supervision of prison staff. The specialized authority may also participate in partial guard duties.¹⁷

The prisoner receives a financial reward for his efforts, which is determined by the two contracting parties, per the applicable legislation. Additionally, the prisoner may receive a training certificate if the work is performed under the specified conditions. This certificate will be awarded upon completion of the assigned tasks, with the important condition that it does not include any mention or indication that the individual is incarcerated.¹⁸ Work in external workshops requires the prisoner to remain outside the penal institution to continue performing the assigned tasks. The prisoner is returned to the penal institution in two cases:

1. The first case occurs when the contract between the penal institution and the contracting party reaches its agreed duration. In this case, the convict has fulfilled their commitment by performing the work, and the contracting party has met its obligations by paying the required dues and returning the prisoner to the penal institution. This marks the natural conclusion of the contract.

¹⁷Article 102 From the Prisons Regulation Law No. 05-04 .

¹⁸ Senkouka(Saeih), previous reference, p . 95.

2. The second case occurs when the contract is canceled by the penal institution or the contracting party, at the request of the judge enforcing penalties. This may happen if the judge determines that the work in the external workshops is not fulfilling its intended purpose, whether due to job conditions, failure to respect the convict's rights, the convict being assigned tasks not agreed upon, or any breach of contract terms.¹⁹

Second Subsection: The Situation in the Semi-Freedom System

The Semi-Freedom System is a modern punitive method that requires certain conditions (first) and a set of procedures to benefit from it (second). Below, we will clarify both aspects.

2.2.1. The Semi-Freedom System and Its Conditions

According to Article 104 of the law, the Semi-Freedom System is a punitive method where the convict is allowed to stay outside the penal institution during the day without supervision, returning to the institution in the evening. However, this system is not automatically granted to the prisoner; it is subject to the fulfillment of certain conditions as set by the law. Article 106 of the Law Regulating Prisons and Social Reintegration of Detainees No. 05-04 stipulates the necessary conditions to benefit from the Semi-Freedom System. These include:

- The convict must have been sentenced and completed a certain period of time in imprisonment.
- The convict must have been serving a sentence and cannot be in temporary detention or suffering from a physical condition that prevents participation in this system.
- The convict must have completed a specified portion of their sentence. Specifically, for first-time offenders, the remaining sentence should be at least 24 months, while for repeat offenders, half of their sentence should have been completed, with no remaining period exceeding 24 months.
- The convict must benefit from the system for specific reasons outlined in Article 105 of the law, such as engaging in work, education, or vocational training during the day, with the requirement to return to the institution in the evening.

2.2.2. Procedures to Benefit from the Semi-Freedom System

A prisoner wishing to benefit from this system, whether a first-time or regular offender, must submit an application to the head of the penal institution or to a judge responsible for applying penalties. The request must specify the reason for the application, such as work, education, or training, and must be accompanied by relevant documents to support the request (e.g., certificates or qualifications). Once the application and documents are submitted, the institution's Reintegration Committee, supervised by the judge responsible for applying penalties, will form a file for the prisoner. The file should include the following documents:

- A written request from the prisoner.
- The prisoner's penal status.
- A copy of the judicial record (No. 2).
- A CV and behavior report.

The Reintegration Committee refers these files to the Penalty Application Committee, which is chaired by the judge responsible for penalties, for evaluation. The Committee will review the requests to ensure they meet legal and objective requirements, as specified in Article 24 of the Prisons Regulation Law No. 05-04, which states that the Penalty Application Committee is responsible for studying requests for partial freedom. Once the required conditions are met, the

¹⁹Article 102 of Prison Regulation Law No. 05-04.

matter is discussed by the Committee, which must be attended by at least two-thirds of its members. Decisions are made by a majority vote. In the case of a tie, the president's vote will decide. If the majority of Committee members agree to grant the request, a decision will be issued by the judge applying the penalties. Meaning, the amount scheduled per prisoner (beneficiary) from the Semi-Freedom System is determined after consulting the Penalty Application Committee and notifying the relevant specialists at the Ministry of Justice, provided the convict is a beneficiary of this system.²⁰

Before benefiting from the Semi-Freedom System, the prisoner must sign a pledge committing to comply with the terms and conditions outlined in the decision. This decision primarily focuses on the prisoner's behavior outside the institution, their actual presence at the workplace, their effort and perseverance in performing the work, and their adherence to the scheduled times for leaving the penal institution and returning. Additionally, the prisoner must respect the specific conditions for implementation, which are determined individually by evaluating the character of each convict.²¹

It is important to note that the Algerian legislator has not specified the obligations that a beneficiary of the semi-freedom system must adhere to. However, the judge applying the penalties may include certain obligations related to the detainee's behavior outside the penal institution, as mentioned earlier. This differs from the French legislator, who has outlined a set of obligations, including the following:

- The prisoner must refrain from appearing in certain places.
- The prisoner must take care of their family in all aspects.
- The prisoner must pay compensation to the victim of the crime or anyone entitled to it.
- The prisoner must pay legal expenses to the state treasury.
- The prisoner must not drive certain types of cars.
- The prisoner must not associate with certain released prisoners, particularly those involved in the crime.
- The prisoner must refrain from contacting specific individuals, especially the victim, and must not receive or shelter them in their home.
- The prisoner must refrain from possessing or carrying a weapon.
- The prisoner must return to the penal institution every evening.²²

The penal institution grants the prisoner benefiting from the semi-freedom system a document, which they must memorize before the relevant authorities to justify their participation in the system. This document is required whenever the prisoner requests it. Upon leaving the institution, the prisoner is allowed to wear normal clothing.²³

The prisoner, under their responsibility, also manages the job statement. In this regard, the applicable job legislation is enforced, specifically concerning the duration of the job, health, and social security. Furthermore, Order No. 66-183 of June 12, 1966, regarding compensation for workplace accidents and occupational diseases, applies to the prisoner. However, the wages are

²⁰ Senkouka (Saeih), op cit, p . 96.

²¹ Tachour (Abdelhafid), The Role of the Judge Applying Penal Judgments in Social Reintegration Policy in Algerian Legislation, no edition number, Dar al-Matbou'at al-Jami'iya, Algeria, 2001, p. 112.

²² Taechele François, The Practice of the Application of Penalties, Litec Edition, 1995, p. 90-91.

²³ Klanmer (Asma), op cit , p. 144.

paid directly to the Penal Management in the form of rewards.²⁴ According to the provisions of Article 108 of the Prison Regulation Law No. 05-04, the authority responsible for imprisonment is entitled to receive the financial amount earned from the convict's work. This amount is deposited into their account, managed by the Penal Administration, to cover transportation and nutrition expenses when necessary. However, the convict is required to justify these expenses and return any remaining amount to their account in writing, ensuring the proper accounting adjustments are made for the institution.

CONCLUSION

In conclusion, it can be said that the Algerian legislator, through the provisions of the Prisons Organization Law, has established a system of judicial oversight for the implementation of punishment. This responsibility is assigned to the judge enforcing penalties, who oversees both custodial sentences and their alternatives, as stipulated by Law No. 05-04. The judge is also granted various powers to manage the treatment of prisoners, including enabling them to benefit from systems such as the external workshop and semi-freedom, while ensuring the proper application of these systems. However, in practice, the role of the Algerian judge in the rehabilitation, reform, and social reintegration of prisoners remains largely formal and has yet to effectively achieve its intended goals.

On this basis, the following recommendations are presented:

- The necessity of appointing a judge to enforce penalties by the High Council to remove the authority from the Minister of Justice, ensuring the independence of the judicial tasks.
- The necessity of supporting the role of the judge enforcing penalties by granting authority to judges ruling on cases, rather than assigning this responsibility to the assistant public prosecutor at the Judicial Council level. It is unacceptable for one party to be both involved in the dispute and the supervisor of the punishment's implementation.
- Activating the role of the judge, enforcing penalties by granting him full powers in penal treatment. The Algerian legislator should consider following the French example by establishing a court for enforcing penalties to adjudicate requests for penalty modifications, and a chamber for enforcing penalties to handle appeals against the judge's decisions.
- Strengthening the role of the judge enforcing penalties in the area of penal treatment by expanding his authority to make decisions regarding external workshops and semi-freedom. The final decision should remain his, with the Committee on Penalty Applications serving as an advisory body. Additionally, the judge should be responsible for concluding agreements with entities receiving penal labor.
- Granting the authority to cancel decisions regarding external workshops and semi-freedom solely to the judge enforcing penalties.
- Expanding the use of punitive methods outside the closed environment based on trust, particularly through the external workshop system. Agreements should be made with the private sector as well, due to the positive impact on both the inmate and society, while also helping alleviate prison overcrowding, which reflects a flaw in the penal policy.

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- 2 Organic Law No. 04-11 dated 21 Rajab 1425, corresponding to September 6, 2004, concerning the Judicial Authority's Statute, Official Gazette, No. 57, published on 08/09/2004.

²⁴Khouri (Omar), op cit , p . 266.

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