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	RESEARCH ARTICLE 			
	<h2>The Shift toward the Delegation Technique as a Mechanism for Supporting Startups</h2>			
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Abstract In the context of restructuring the Algerian national economy and revitalizing the private sector after decades of marginalization, startups have emerged as a strategic tool for sustainable development, job creation, and diversification away from hydrocarbon dependence. To support their growth, the Algerian legislator has introduced the delegation of public service (délégation de service public) as a novel contractual mechanism that allows public entities to entrust the management and operation of public facilities to private operators, including startups, under priority-award rules and specific legal regimes. Drawing on Presidential Decree No. 15-247 of 2015 and Executive Decree No. 18-199 of 2018, this study examines the conceptual foundations of delegation, the position of the Algerian legislator vis-à-vis this technique, and the concrete contractual forms it may take (concession, management contract, lease, and incentive agency). Through descriptive, analytical, and comparative approaches—particularly with French law—the article evaluates the effectiveness of delegation as a support and financing instrument for startups. While the mechanism offers startups priority access, operational autonomy, and revenue streams, its predominantly administrative nature and public-interest orientation often limit profit margins, thereby constraining its capacity to fully achieve the revitalization and financing objectives originally envisioned for the startup ecosystem. The paper concludes with targeted legislative recommendations to enhance the attractiveness and viability of delegation contracts for innovative enterprises.				
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Introduction

Startups, in their various forms, occupy a distinguished position in embodying economic revitalization policies across most countries worldwide¹, stemming from their capacity to generate new employment opportunities, thereby mitigating unemployment, increasing investment volumes, and contributing to the growth in the scale and value of industrial exports. Accordingly, small and medium-sized enterprises constitute a vital gateway to economic growth, as they play a significant role in ensuring the sustainability of economic development. Hence, most nations have focused on this category of enterprises and worked to regulate them².

The prevailing trend today is toward improving the investment climate for these enterprises and establishing frameworks for their success and advancement. If these enterprises are important in developed countries, they are even more crucial for developing nations, particularly amid the challenges posed by the new global economy.

The Algerian legislator, akin to other legislative frameworks, has recognized the importance of startups and the role they can play in building an integrated economic fabric. Therefore, the state has implemented numerous specialized programs to promote and qualify this vital sector. The legislator's initial steps materialized in the issuance of Law No. 01-18, which encompasses the Orientation Law for the Promotion of Small and Medium-Sized Enterprises³—a pivotal turning point for developing this sector in Algeria, aimed at defining mechanisms for assisting and elevating it. This law was revised in 2016 to provide further support, leading to the issuance of Law No. 17-02, encompassing the Orientation Law for the Development of Small and Medium-Sized Enterprises⁴.

Algeria is among the countries supporting these enterprises, fully aware of their significance and position in its economy, prompting efforts to encourage them through a range of tools and mechanisms that bolster their growth and expansion⁵.

Accordingly, the state's focus has centered on establishing legal frameworks that incorporate mechanisms for financing, incentivizing, and reinforcing them, ensuring substantial gains for the state. Thus, the mechanisms, frameworks, and methods for financing and supporting these enterprises diversify in accordance with the regulatory texts governing them, reflecting the state's commitment to their advancement.

This research paper aims to examine one of the newly introduced legal frameworks supporting startups, represented by the delegation technique, in line with the legislator's intent to elevate them.

To what extent is the delegation technique effective in supporting startups, and how far will it contribute to their revitalization and development?

To address this inquiry, it is necessary to explore the concept of the delegation technique (First Section) and the various legal forms for its practical embodiment (Second Section).

In studying the topic, we rely on the descriptive method as the foundation to encompass various aspects of the legal system pertaining to the delegation technique, supplemented by the analytical method to analyze and critique the regulatory texts and assess their efficacy in supporting startups. Additionally, the comparative method is employed where appropriate to examine leading countries' experiences, with clear reliance on the French legislator in this domain.

First Section: The Concept of the Delegation Technique as a Mechanism for Supporting Startups

Startups have garnered significant attention from the state, particularly in recent times, as it has called for the incubation and accommodation of these projects due to their contribution to propelling economic growth, especially post the COVID-19 crisis. It has become imperative to seek novel mechanisms to support and finance this type of enterprise, viewing it as a new partner and investor⁶.

These mechanisms have proliferated in tandem with the regulatory texts governing them. Delegation stands as one of the most critical mechanisms supporting startups, and given its importance, it is essential to examine the legislator's stance on its endorsement (First Subsection) and the delegation agreement as the instrument embodying its legal existence (Second Subsection).

First Subsection: The Position of the Algerian Legislator on the Delegation Technique

Like other terms, delegation has elicited varied doctrinal definitions. Some define it as the contract whereby the delegate is entrusted with executing and exploiting a public facility.

Another doctrine defines it as "the transfer of the state's authority and responsibility to the private sector for managing and exploiting a public facility for a specified period to achieve the public interest."

Legally, several definitions appear in French legislation, but for instance, we cite the definition in Article 38, as amended by Article 3 of Law MURCEF No. 01-1168, as "a contract whereby a public law entity entrusts the

management of a public facility to a public or private entity in exchange for remuneration linked to the facility's exploitation."⁷

Referring to Algerian legislation, it does not explicitly define the delegation of a public facility but refers to the concession contract and mentions the delegation agreement. It employs the delegation of the public facility in Article 101/2 of Law No. 05-12 on Water, stating: "... the state may grant a concession for managing public water services to entities subject to public law based on a specifications book and service system approved by regulation, and may delegate all or part of the management of these services to moral persons subject to public and private law via an agreement."⁸

It explicitly references this agreement in Article 156 of Law No. 11-10 on the Municipality, maintaining the traditional delegation approach by using the terms concession and delegation of public services, provided that delegation occurs in the form of a program deal⁹.

As for Law No. 12-07 on the Wilaya, it does not mention delegation and suffices with traditional management methods (direct method and concession) ¹⁰.

Despite the issuance of Presidential Decree No. 15-247 on Public Procurement and Public Facility Delegations¹¹, it does not include a provision defining delegation but contains general provisions regulating the delegation of public facilities¹².

It is noteworthy that the aforementioned Presidential Decree serves as the framework text delineating the delegation process in Algeria. Article 207, within Chapter Two titled Provisions Applicable to Public Facility Delegations, explicitly states: "A moral person subject to public law responsible for a public facility may delegate its management to a delegate, unless there is a contrary legislative provision. The delegate's remuneration is primarily covered by the facility's exploitation. The delegating authority, acting on behalf of a moral person subject to public law, delegates the management of the public facility via an agreement. In this capacity, the delegating authority may entrust the delegate with constructing installations or acquiring necessary assets for the facility's operation."

The modalities for applying the provisions of this chapter are determined by executive decree."

Despite the delay in issuing the implementing text—a common occurrence with most implementing texts in Algeria—the Executive Decree No. 18-199 was issued three years later to specify the modalities for applying delegation provisions¹³.

The aforementioned Executive Decree implements Articles 207 and 210 of Presidential Decree No. 15-247, organizing public procurement and public facility delegations, aimed at defining the conditions and modalities for delegating public facilities to territorial collectivities excluding central ones. Within the preliminary provisions of Chapter One, the legislator defined the conceptual framework for delegation in Article 2: "Delegation of the public facility, as per this decree, means the transfer of certain non-sovereign tasks belonging to public authorities, for a specified period, to the delegate mentioned in Article 4 below, for the public good."¹⁴

It is evident that delegation serves as a mechanism to bolster territorial collectivities and public administrative institutions affiliated with them responsible for managing a public facility, by delegating its management to a moral public or private person, leveraging the funds and capabilities of private law persons. What is the share of startups in the delegation technique, and how do delegation contracts serve as a mechanism to support them?

Referring to Article 23 of Executive Decree No. 18-199, it explicitly states: "If small and medium-sized enterprises can execute the subject of public facility delegation, the delegating authority, represented by territorial collectivities and affiliated public administrative institutions, must prioritize them in granting the delegation."

It is clear that startups are granted the management of administrative public facilities as delegates via delegation agreements, enjoying priority rights therein, which aligns with the series of support strategies established for them. This is in addition to the preference margin they enjoy under the organization of public procurement and public facility delegations.

Law No. 23-12, for the first time, explicitly encourages startups by granting them priority in certain procurements and designating them as cases for direct negotiation, which inherently involves awarding the public contract without prior formal procedures. Article 41, paragraph 2, states:

"1-

2- When it concerns promoting startups bearing the label, as defined by the applicable legislation and regulation, providing services in digitization and innovation, provided that the proposed solutions are unique and innovative."¹⁵

Second Subsection: The Delegation Agreement

The delegation of a public facility is founded on a contract between the delegation grantor "delegating authority" and the delegation holder "delegate," who may be a moral public or private person subject to Algerian law, resulting in a contractual relationship within what is known as the "delegation agreement."¹⁶

Accordingly, delegation occurs via the "delegation agreement" in accordance with the rules and procedures stipulated in Executive Decree No. 18-199.

This contractual relationship is based on executing the delegation agreement's provisions according to essential principles enshrined in Executive Decree No. 18-199. Article 3 states: "Without prejudice to Article 5 of Presidential Decree No. 15-247 dated 2 Dhu al-Hijjah 1436 corresponding to 16 September 2015 above, the delegation of the public facility must occur within the framework of respecting the principles of equality, continuity, and adaptability, ensuring quality and efficiency standards in public service."

Examining the article reveals that the delegating authority, including startups, must ensure the principles underpinning the continuity of the public facility—principles affirmed by Presidential Decree No. 15-247: "Delegation agreements for public facilities are subject, upon conclusion, to the principles stipulated in Article 5 of this decree.

Additionally, the public facility, upon executing its delegation agreement, is particularly subject to the principles of continuity, equality, and adaptability."¹⁷ These are the same principles established by the French Council of State's jurisprudence¹⁸.

These considerations led both the French and Algerian legislators, when framing the general structure for the delegation technique, to confine it to contracts excluding unilateral acts¹⁹.

Accordingly, the purpose of delegating a public facility is its exploitation in accordance with its establishment objective, which is achieving the public interest, under the supervision of the delegating authority²⁰.

Thus, the delegation technique serves as a mechanism to support public facilities that have proven incapable of direct management, ensuring improved public service and reducing burdens on public expenditure.

The delegate personally undertakes financing, exploitation, and operation of the public facility and bears management risks²¹.

On the other hand, delegation constitutes a mechanism to support startups, as delegation is granted to them based on priority rights to revitalize and finance them, manifested through the powers granted under the delegation agreement:

- Management autonomy while the delegating administration retains oversight rights over the facility.
- Direct relationship between the delegate and users, in addition to suppliers and contractors.
- Benefiting from profits, bearing risks, and financing operations.
- Startups receiving compensations from users' exploitation of public facility services or remuneration from the delegating authority, covering operational expenses and achieving profits sought by every startup²².

Second Section: Legal Forms of the Delegation Technique

There exists a set of contracts agreed upon as public facility delegation contracts; however, the Algerian legislator has confined them to specific legal forms²³, whether under the general provisions of Presidential Decree No. 15-247 or Executive Decree No. 18-199, which reaffirmed them. Some are considered traditional forms (First Subsection), while others are modern forms (Second Subsection).

First Subsection: Traditional Delegation Contracts

Traditional delegation contracts refer to those the legislator has customarily regulated in prior texts before Presidential Decree No. 15-247, including the concession contract (First Branch) and the management contract (Second Branch).

First Branch: The Concession Contract

The concept of concession has evolved with varying doctrinal perspectives and the diversity of public facilities' nature, initially serving as a means for private persons to manage industrial and commercial facilities.

However, with the emergence of delegated administration in its traditional sense, concession acquired a broader meaning to encompass any administrative contract granting the operator temporary exploitation of state-owned property exceptionally, for a specified and continuous purpose, in exchange for royalties.

It is noteworthy that the Algerian legislator did not address its definition despite regulating it in several post-independence legal texts, leaving it to doctrine and judiciary, hence considering it a traditional contract²⁴.

Thus, the concession contract is a method for managing and administering public facilities to another person, typically a private law entity, where it undertakes managing and exploiting the public facility in its name and under its responsibility, under the delegating authority's supervision and control, receiving royalties from facility users in return²⁵.

It is evident that the concession contract serves as a tool to support state institutions at the local level by relinquishing certain facilities whose practical reality has proven burdensome on the public treasury, entrusting a private law person—often a startup—to use its funds, means, and workforce for managing the delegated public facility. It represents mutual coexistence and support encompassing both contract parties, especially absent any prohibition excluding startups from the contractual relationship, making the concession contract a prominent form of delegation since independence.

Second Branch: The Management Contract

The management contract is another delegation mechanism not codified in comparative legislations, remaining an unnamed contract in European countries like France, England, Tunisia, and Morocco.

The management contract is of Anglo-Saxon origin, currently witnessing widespread applications in numerous countries worldwide across various fields, notably hospitality, tourism, management of large companies specializing in heavy industries, and construction and development firms. Its objective is to enhance service performance and achieve economic profitability for state institutions.

The Algerian legislator regulated the management contract under Law No. 89-01 within Chapter Nine titled Contracts for Services, in the repeated Chapter One under the name Management Contract, corresponding to CONTRAT DE MANAGEMENT in French.

It regulated it in Article 1 of Law No. 89-01: "The management contract is a contract whereby an operator enjoying recognized reputation, called the manager, undertakes toward a public economic institution or mixed economy company to manage all or part of its assets in its name and on its behalf in exchange for remuneration, imprinting its mark according to its standards and enabling it to benefit from its promotion and sales networks." ²⁶

From this definition, the management contract aims to manage and provide services on behalf of the public collectivity bearing financial and technical management risks, with the manager receiving a lump-sum remuneration predetermined in the contract.

Thus, the management contract is a delegation contract where the delegating authority entrusts the delegate with managing a public facility in exchange for an annual royalty paid to it, with the delegate subsequently acting on its own account and responsibility, while the delegating authority finances the facility's establishment.

What distinguishes the management contract is that its foundation is technology transfer; at its core, it is a bilateral civil contract with a special legal regime based on the contractor's knowledge, competence, and merit with state institutions to improve service quality and enhance profitability.

In conclusion, despite considering the management contract's elements as a manifestation of public facility delegation and an effective tool for technology transfer and ensuring improved performance of state institutions at the local level—especially since delegation is established for their benefit—it cannot be deemed a support tool for startups due

to their limited capabilities and reliance on advanced technology. However, it cannot be outright denied absent legal prohibition when justifications exist.

Second Subsection: Modern Delegation Forms

Modern delegation forms for public facility delegation contracts encompass those included in Presidential Decree No. 15-247 and reaffirmed by Executive Decree No. 18-199.

While the aforementioned contracts have received legislative attention and practical embodiment, the opposite is observed regarding the lease contract (First Branch) and the incentive agency contract (Second Branch).

First Branch: The Lease Contract

The inability of public entities to directly manage all public facilities due to their multiplicity, diversity, and burdensome loads has led to a clear decline in service quality provided to beneficiaries, necessitating the state to seek alternative legal frameworks, first referenced in Presidential Decree No. 15-247 as a delegation method for public facilities, with Executive Decree No. 18-199 regulating it.

Some define the lease of a public facility as "a contract whereby a public entity delegates to a natural or moral person the exploitation of a public facility excluding the lessee's investments, with financial consideration paid through royalties by users directly related to the facility's exploitation."²⁷

It is noteworthy that the provisions of the lease contract in Algerian law are contained in the Civil Code under Law No. 07-05 amending the Civil Code, where most provisions governing it were amended or repealed²⁸.

The Algerian legislator defined it as a form of public facility delegation in Article 210: "... the lease is a contract whereby the delegating authority entrusts the delegate with managing and maintaining the public facility in exchange for an annual royalty paid to it. The delegate then acts on its own account and responsibility..."

Executive Decree No. 18-199 defined it in Article 54: "The lease is the form whereby the delegating authority entrusts the delegate with managing and maintaining the public facility in exchange for an annual royalty paid to it, with the delegate acting on its account, bearing all risks, under partial supervision by the delegating authority."

It is evident that the delegate in a public facility delegation lease contract is any person, potentially a startup, undertaking responsibility for managing a public facility without bearing the burden of establishing the facility and its basic installations, receiving a ready facility for operation and exploitation in exchange for paying an amount in the form of annual royalty for using the facility's installations²⁹.

It is noteworthy here that public facility delegation contracts in the form of lease are among those attracting practical interest from startup owners due to their alignment with these entities' capabilities, allowing us to assert that this form—"lease contract"—is a supportive tool for this type of enterprise and a vital financing means, although we disagree with the legislator's view of it as a delegation form; it cannot exceed being considered a civil or commercial lease.

Second Branch: The Incentive Agency Contract

The incentive agency contract is a contractual technique and another form of delegating public facilities.

It is noteworthy that prior to Presidential Decree No. 15-247, this contract was known as shared exploitation or indirect exploitation³⁰.

Thus, the first regulation of the incentive agency contract in Algeria occurred under Presidential Decree No. 15-247 in Article 210: "The delegating authority entrusts the delegate with exploiting the public facility on behalf of the delegating authority, which finances the facility's establishment and retains its administration. The delegate's remuneration is paid directly by the delegating authority through a grant determined as a percentage of turnover, added to a productivity grant and, where applicable, a profit share."

Executive Decree No. 18-199 in Article 55, paragraph 1, confirmed the same direction: "The incentive agency is the form whereby the delegating authority entrusts the delegate with managing the public facility or its management or maintenance."³¹

Paragraphs 2, 3, 4, 5, 6, and 7 were dedicated by the legislator to regulating the basic provisions defining the incentive agency technique.

It is evident that the delegate may be a natural or moral person or mixed economy companies; thus, the legislator did not specify a particular person. The principle is that the delegation contract is concluded between a public and private person, with the latter managing and administering the facility³¹.

It is noteworthy that the delegate in the incentive agency contract does not use its funds for management and maintenance; rather, this burden falls on the delegating authority. It does not operate at its expense and legal and financial responsibility but performs the work on behalf of the delegating authority, which provides remuneration consisting of fixed and variable parts³².

The delegating authority does not lose management and financing of the facility but retains it entirely, as the public authority finances the facility, as confirmed by Article 55, paragraph 3 of the aforementioned Executive Decree No. 18-199.

The same article in paragraph 4 emphasized the specificity of the financial consideration paid to the delegate: "... and the delegate is paid remuneration directly by the delegating authority in the form of a grant determined as a percentage of turnover, added to a productivity grant, and where applicable, a profit share ..."

Examining the overall provisions regulating the incentive agency contract reveals it is based on investment encouragement and profitability pursuit, incentivizing the delegate's personal drive to obtain financial consideration through a grant as a percentage of achieved turnover. Consequently, startups entering this contractual relationship will undoubtedly achieve the intended objective, presenting an opportunity to overcome their financial deficits, serving as a tool for financing and supporting them.

Conclusion

The profound imbalances in the economic landscape have necessitated devising novel contractual techniques compatible with Algeria's new transformations, particularly following the economic crisis attributed to total reliance on petroleum as the sole wealth source. It has become evident that the optimal and effective solution to reduce public expenditure burdens and rationalize them on one hand, and revitalize and bolster startups on the other, is adopting the public facility delegation technique. This has been realized through Presidential Decree No. 15-247 and Executive Decree No. 18-199. The findings of this study are:

- The delegation technique occurs via an administrative contract and is a modern management technique devised as a solution to confront public financing crises for the delegating authority, representing an opportunity for startups and delegates managing these public facilities to revitalize and elevate them.
- The regulation of the delegation technique in Presidential Decree No. 15-247 and subsequently Executive Decree No. 18-199 has been somewhat successful, as the regulator attempted to embody the idea of advancing the national economy for its revitalization through delegating public facility management. While this is primarily achieved for the delegating authority, it differs for the delegate, particularly startups despite their priority rights. The latter seek profit through this technique, while delegated facilities are administrative, aiming for public interest and general benefit, thus often not achieving the delegation agreement's purpose.

Consequently, even if the legislator sought to support startups via the delegation technique, it remains insufficient to fulfill its primary objective of revitalizing, bolstering, and financing startups.

Therefore, two significant proposals are warranted to enrich the legal texts and favor startups, summarized as:

- Treating startups specially under Executive Decree No. 18-199 by establishing their priority and increasing premiums and percentages from managing and exploiting public facilities across adopted legal forms to encourage them.
- Exempting startups from taxes and fees when resorting to public facility delegation contracts, given the slim profit margins in this contract type.

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Ethical Considerations

This research was conducted in accordance with academic and professional ethical standards. No personal data were collected, and no human or institutional subjects were directly involved. All legal and regulatory documents referenced in the study, including Algerian decrees and comparative legal frameworks, are publicly available and were used strictly for scholarly and analytical purposes. The authors affirm that all interpretations of legal texts and policy materials were conducted objectively and without bias.

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Conflict of Interest Statement

The authors declare that there is no conflict of interest related to the publication of this article. They have no financial or personal relationships that could inappropriately influence or bias the research findings, analysis, or interpretation presented in this study.

Footnotes

¹ Al-Atia, *Management of Small Projects*, 31. Startups occupy 80% to 90% of total operating establishments in most countries worldwide. For further details, see *ibid*.

² The concept of small and medium-sized enterprises initially elicited numerous interpretations, generally revolving around the European Union's definition: "A micro-enterprise employs fewer than 10 workers; a small enterprise meets independence criteria and employs fewer than 50 workers with an annual turnover of 7 million euros or balance sheet not exceeding 5 million euros; a medium enterprise meets independence criteria, employs fewer than 250 workers, with annual turnover not exceeding 40 million euros or balance sheet not exceeding 27 million euros."

³ Law No. 01-18 dated December 12, 2001, encompassing the Orientation Law for the Promotion of Small and Medium-Sized Enterprises, Official Gazette No. 77 dated December 15, 2001.

⁴ Law No. 17-02 dated January 10, 2017, encompassing the Orientation Law for the Development of Small and Medium-Sized Enterprises, Official Gazette No. 02 dated January 11, 2017.

⁵ Algeria aspires to establish 600,000 small and medium-sized enterprises by 2020, attracting 6,000 jobs.

⁶ Granting the startup label is for 4 years by the National Committee for enterprises meeting the following conditions: The enterprise's age must not exceed eight years; the business model must rely on innovative products, services, business models, or ideas; annual turnover must not exceed the amount set by the National Committee; capital must be owned at least 50% by natural persons, accredited investment funds, or other labeled startups; growth potential must be sufficient; workforce must not exceed 250. Based on the above, the enterprise obtains the startup label after submitting an application via the national electronic portal for startups, accompanied by documents proving the conditions, with decisions published on the portal. See Article 11 of Executive Decree No. 20-254 dated September 15, 2020, establishing the National Committee for Granting the "Startup," "Innovative Project," and "Business Incubator" Labels and Defining Its Tasks, Composition, and Operation, Official Gazette No. 55 dated September 21, 2020.

⁷ Jaber, *Delegation in the Management and Investment of Public Facilities*, 58.

⁸ Law No. 05-12 dated August 4, 2005, on Water, Official Gazette No. 60 dated September 4, 2005, amended and supplemented by Law No. 08-03 dated January 23, 2008, Official Gazette No. 4 dated January 27, 2008, amended and supplemented by Ordinance No. 09-02 dated July 22, 2009, Official Gazette No. 44 dated July 22, 2009. The water sector was the first to employ the delegation technique.

⁹ Law No. 11-10 dated June 22, 2011, on the Municipality, Official Gazette No. 37 dated February 29, 2012.

¹⁰ Law No. 12-07 dated February 21, 2011, on the Wilaya, Official Gazette No. 12 dated February 29, 2012.

¹¹ Presidential Decree No. 15-247 dated September 16, 2015, Organizing Public Procurement and Public Facility Delegations, Official Gazette No. 50 dated September 20, 2015.

¹² See provisions of Chapter Two titled Provisions Applicable to Public Facility Delegations.

¹³ Executive Decree No. 18-199 dated August 2, 2018, on Public Facility Delegation, Official Gazette No. 48 dated August 5, 2018.

¹⁴ Article 87 of Presidential Decree No. 15-247 explicitly states: "When certain needs of contracting services can be met by micro-enterprises, as defined in applicable legislation and regulation, contracting services must, except in legally justified exceptional cases, allocate these services exclusively to them, observing this decree's provisions." The legislator's use of "must" implies obligation and compulsion, requiring contracting services to grant these services to micro-enterprises.

¹⁵ Law No. 23-12 dated August 5, 2023, Defining General Rules on Public Procurement, Official Gazette No. 51 dated August 6, 2023.

¹⁶ See Article 4 of Executive Decree No. 18-199 dated August 5, 2018, aforementioned.

¹⁷ See Article 209 of Presidential Decree No. 15-247 dated September 20, 2015, aforementioned.

¹⁸ The French Council of State's decision on October 7, 1986, was clear: "The administrative nature of the public facility does not prevent the local collectivity from entrusting its execution to private persons except for certain facilities due to their nature." For further details, see Boiteau, *Les Conventions de Délégations de Service Public*, 87.

¹⁹ Article 6 of Executive Decree No. 18-199 explicitly states: "The public facility delegation agreement is an administrative contract concluded in accordance with applicable legislation, regulation, and this decree's provisions."

²⁰ Boiteau, *Les Conventions de Délégations de Service Public*, 87.

²¹ As confirmed by Article 210 of Presidential Decree No. 15-247 dated September 20, 2015, aforementioned.

²² Muhammad, *Delegation of the Public Facility*, 55-56.

²³ These are the contracts judicially classified by French jurisprudence as public facility delegation contracts.

²⁴ Referring to some laws like Ordinance No. 96-13 on Water, particularly Article 4, the legislator explicitly defined the concession contract.

²⁵ Quoted from Lamari and Bala, "The Concession Contract as a Method for Managing the Public Facility," 241.

²⁶ Law No. 89-01 dated February 7, 1989, Encompassing the Civil Code, Official Gazette No. 6, 1998, amended and supplemented.

²⁷ Darifi, *Management of the Public Facility and New Transformations*, 172.

²⁸ Law No. 07-05 dated May 13, 2007, Amending and Supplementing Ordinance No. 75-58 dated September 26, 1975, Encompassing the Civil Code, Official Gazette No. 31 dated September 27, 2007.

²⁹ Founas, "Public Facility Delegation Contracts," 2.

³⁰ Muhammad, *Delegation of the Public Facility*, 55-56.

³¹ The ministerial instruction of 1975 defined this technique: "The indirect management method consists of the public collectivity financing the facility's installations, entrusting its exploitation and maintenance to a natural or moral private law person on its behalf, in exchange for revenues added to a premium determined according to productivity and potentially based on a profit portion." For further details, see Allam, "The Incentive Agency," 2.

³² If the delegation grantor is private, public facility delegation is excluded, except for contracts between two private law persons in the name, on behalf, and under supervision of a public person. For more information, see Auby, *La Délégation du Service Public*, 39.

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