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Impact of legislative precision in the management of the *Casbah*



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Abstract

The historic centre of Algiers (*Casbah*) presents a state of severe decay. Laws and legislative measures have been promulgated in the past three decades to provide an adequate framework for the conservation of the old city.

This paper investigates the law and subsequent legal instruments used in heritage management and the impact of legislative provisions on the management of the living historic centre of the *Casbah* of Algiers.

Before the issuance of Algerian Law n°98–04 relating to the protection of cultural heritage, the role of the various entities managing the *Casbah* was rather unclear. This law provides more details about the structure of urban heritage management. Additionally, a new heritage protection tool came into existence (the PPSMVSS, i.e., the Permanent Plan for Safeguarding and Enhancement of the Safeguarded Sector).

Difficulties encountered in the field concerning the application of legislative tools caused considerable delays in preservation actions on the ground. This paper provides an analysis of the contradictions between text enforcement and conservation plans to understand the main reasons that led to the degradation of the historic area. Accordingly, the paper proposes a number of solutions to be implemented by the Algerian authorities.

Keywords heritage, urban heritage, heritage management, heritage law, management of urban historic centres, protected areas/safeguarded sectors, conservation plans/safeguarding plans

1 Introduction

The protection of cultural heritage has undergone a long process to reach its current status in the *Casbah* of Algiers (Fig. 1).

Changes have taken place in national, international and even local cultural heritage laws.

This paper reviews national-level Algerian laws concerning the protection of cultural heritage and analyses the contradictions and gaps within the texts. It sheds light on how effective management is primarily based on legal texts that are directly related to the conditions found in

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living historic centres and in particular in the *Casbah* of Algiers.

The legislative texts chosen in the analysis are the Conservation of Cultural Heritage Law and the texts pertaining to the application of that law (Law 98–04); other legislative texts were also chosen depending on what they brought to the analysis. Those texts were directly mentioned in law 98–04 (e.g. Law 91–10 of Waqfs) or indicated by specialists in the field (Law 14–10, Law 17–11 of Finance and decree 16–55).

2 Evolution of Algerian Heritage Law on heritage protection

In 1962, the Algerian government extended the legislation governing the country before independence by the law $n^{\circ}62-157$ (in December 31st, 1962) thus giving time to the institutions to propose new laws and to promulgate them until 1973. (OJ $n^{\circ}02$ 1963).



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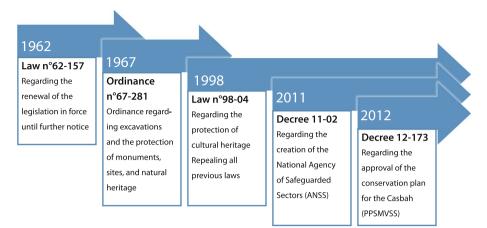


Fig. 1 Diagram showing the issuance of heritage laws in Algeria chronologically (Source: the author)

In 1967, law (*ordonnance*) n°67–281 was issued in an attempt to broaden the scope of the heritage protection in Algeria. Primarily concerned with the protection of historic monuments and sites, the law gave birth to the National Commission for Sites and Monuments and to departmental commissions. Since then, the following laws and legal instruments have been issued:

In 1998, a new and more comprehensive cultural heritage protection law was enacted that protected more types of heritage, such as intangible and underwater heritage.

The new law, promulgated on June 15th, 1998, aimed to 'define the cultural heritage of the nation, enact general rules for its protection, safeguarding and enhancement, and set the conditions for their implementation' (OJ n°44 1998).

The law distinguishes between different types of heritage and different approaches to heritage protection; the law also stipulates issues of funding and sanctions and establishes the various bodies falling under its jurisdiction.

The new law defines cultural heritage in Algeria as to include intangible and tangible heritage. The latter is further divided into movable and immovable heritage.

In particular, Article 8 of Law 98–04 defines immovable cultural property as: (Fig. 2).

- Historic monuments;
- Archaeological sites; and
- Groups/ensemble of buildings in urban or rural areas.

To each category of cultural property corresponds a specific protection measure; these measures include:

- Registration on the list of *additional* sites
- Classification

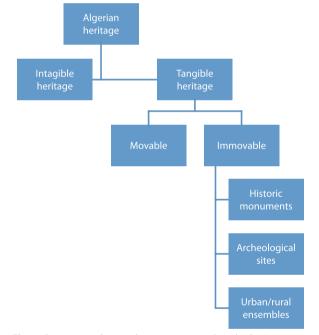


Fig. 2 Organigram showing heritage types as described in Law 98–04 (Source: the author)

 Creation of Safeguarded Sector (Conservation/Protected Area).

Law 98–04 contains 108 articles, of which only five pertain to safeguarded sectors (protected areas). The law describes the different methods by which heritage is protected taking into account the type of cultural property; it also defines safeguarded sectors (SS), the process of creating SS and the ministries involved in this process, as well as the financing of operations and the way control and sanctions are effected.

3 Institutions managing the Casbah of Algiers

3.1 Managing the Casbah after 1962

Since the independence of Algeria in 1962, the management of the *Casbah* has suffered from inconsistent supervision, moving from one ministry's portfolio to another's.

Initially, the French legislation was extended with a few changes made.

Then, in 1966, minor actions were undertaken following the initiative of Lézine (Lézine 1966), a UNESCO expert who recommended urgent conservation of the *Casbah*, which was perceived as an overcrowded area constantly being degraded.

In the 1970s, the Permanent Committee for the Study, Development, Organisation and Planning of the agglomeration of Algiers, 'COMEDOR' (1968), launched actions to safeguard the historic city.

A number of managing bodies, as well as design offices, were created to carry out the conservation of the *Casbah*. These included OFIRAC (OJ n°31 1985), CNERU (OJ n°10 1983), Atelier *Casbah* (1978), and the National Agency for Archaeology (OJ n°02 1987).

Several plans were also realised to guide and manage the development of the city of Algiers, including its *Casbah*. These plans included the following:

- The P.O.G. (general orientation plan), approved in 1975 (OJ n°46 1975),
- The master plan for development (1986), and
- The PUD (master urban plan, 1987).

At the same time, the specific attributes of the *Casbah* were considered in development plans concerned with socioeconomic and historic-cultural aspects relevant to cultural heritage. Such plans included.

- the project for the re-evaluation of the *Casbah* of Algiers (1978–1981), and
- an action plan—prioritisation programme (1985), which considered all the problems faced in the restoration of the *Casbah's* buildings and monuments, such as issues pertaining to networks, new equipment, dedensification and families' relocation; this plan also considered financial evaluations.

During the 1990s, Algeria underwent a difficult period of turmoil; nevertheless, several laws on land use and town planning were promulgated at the beginning of the decade (1990–91).

These legal tools aimed to enrich the regulations regarding the protection of historic sites and buildings and thus generated a need for the urgent promulgation of a new law for the protection of heritage sites. Indeed, a few years later, in 1998, the President of the Republic issued the law mentioned above, which related to the protection of cultural heritage (OJ n°44 1998).

3.2 Managing the Casbah today

Several specialists (Khelifa 1991; Ouagueni 2010; Righi 2014; and others) have agreed that law (*ordonnance*) n°67–281 of December 20, 1967 (OJ n°07 1967) related to archaeological excavations and historic sites and monuments is not sufficient to address the protection of living urban historic sites.

Apart from the lack of a precise instrument to intervene in and manage historic urban centres, there has also been a lack of directives and regulations that take into account and address challenges related to urban development near listed monuments and sites.

In what follows, we discuss the management of the *Casbah* of Algiers based on emerging legislative texts concerned with the protection of cultural heritage in relation to decisions made by the Algerian state. Based on these texts and government decisions, we discuss the overlapping four-part chronology of legal and managerial developments:

- The period between 1998 and 2005 (corresponding to time between the promulgation of Law 98–04 and the creation of the *Casbah*'s safeguarded sector)
- The period between 2005 and 2016 (corresponding to the time between the creation of the SS of the *Casbah* and the creation of the OGEBC)
- The period since 2011 (corresponding to the time since the creation of the ANSS)
- The period since 2016 (corresponding to the time since the handover of the *Casbah* operations from OGEBC to the Wilaya)

3.2.1 Period between 1998 and 2005

At the time the law about the protection of cultural heritage had been issued, the *Casbah* of Algiers was under the supervision of the Governorate of Greater Algiers, in place since 1997 (OJ n°38 1997; OJ n°07 2000). This new supervisory body focused on conducting studies and works for the rehabilitation, restructuring, restoration and renovation of the urban fabric.

Although Law 98–04 was issued in June 1998, the first text regulating the implementation of the law was only promulgated in October 2003 (OJ n°60 2003a, 2003b); the latter text provided details about how to address the development and elaboration of the safeguarding plan (PPSMVSS).

The safeguarding/conservation plan for the *Casbah* of Algiers was designed between 2000 and 2005, before the creation of the SS of the *Casbah* of Algiers, which was launched by the Wilaya of Algiers and developed by the CNERU (Ouagueni 2010) following the recommendations of UNESCO, after the *Casbah* had been listed as a World Heritage site in 1992.

3.2.2 The period between 2005 and 2016

In March 2004, the CNERU (*Centre national des études et des recherches appliquées en urbanisme*) produced a conservation plan that was approved by the APW (*Assemblée populaire de Wilaya*) of Algiers (Righi 2014). This plan did not comply with the provisions included in the Executive Decree 03–324 that related to the ways in which the PPSMVSS should be established; indeed, the site boundaries were not the same as those of the *Casbah*'s safeguarded sector of that had been created in 2005 (Righi 2012).

In the same year, the National Archaeological Agency (ANAPSMH) underwent administrative restructuring, which resulted in the creation of the National Office for the Management and Exploitation of Protected Cultural Property (OGEBC).

In 2007, the CNERU updated the old conservation plan according to Executive Decree 03–324, with the Director of Culture of the Wilaya of Algiers (DCWA) as the contracting authority (*maître d'ouvrage*).

In February 2010, three years after the official launch of the PPSMVSS study on the *Casbah* of Algiers, *'a decision was made to transfer the contracting authority*' of the Emergency Works operation from the DCWA to the OGEBC (Righi 2012), rendering the management of the *Casbah* once again unstable, unclear, and inefficient.

The CNERU completed the final version of the PPSM-VSS in April 2010 and submitted it for approval. It was adopted by the APW of Algiers in April 2011 and was then approved by an interministerial committee in 2012 (OJ n°18 2012).

3.2.3 Since 2011

After the OGEBC took over the emergency works within the SS of the *Casbah*, a decree was promulgated in January 2011 (OJ n°01 2011b) to create the National Agency for Safeguarded Sectors (ANSS), which became operational in 2013. It became evident that the functions of both offices overlapped.

During the same period, the OGEBC created the *cellule Casbah*, which launched an action plan called *'plan d'attaque'* (Figs. 3 and 4) to initiate the implementation of the PPSMVSS of the *Casbah* under the supervision of a steering committee.

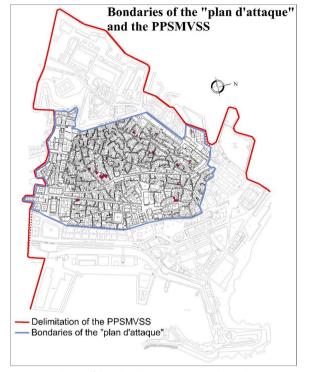


Fig. 3 Boundaries of the 'plan d'attaque' (Source: the author)

The steering committee The steering committee was set up to oversee the proper application of the *Casbah*'s PPSMVSS since that plan was the first approved conservation plan to be implemented. This committee was created in December 2013; it was chaired by the *Wali* of Algiers and made up of 3 subcommittees:

- The heritage committee,
- The network committee, and
- The residential management committee.

The role of the steering committee was to coordinate the operations undertaken by the various subcommittees within the SS of the *Casbah* for a better implementation and to ensure transparency in the implementation of the PPSMVSS.

Technical assistance and intersectorial management Following the earthquake of August 1st, 2014, and the instructions of the *Wali* of Algiers, a *crisis unit* was created at the office of the *'cellule Casbah'* within OGEBC. This unit enabled the establishment of eight committees, which were all composed of.

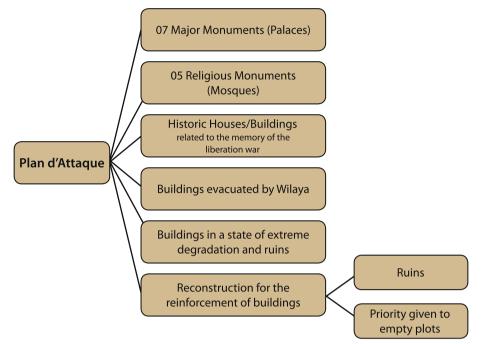


Fig. 4 Plan d'attaque (Source: presentation made to the Minister of Culture on February 23, 2015, Cellule Casbah)

- The architect from OGEBC, cellule *Casbah*, who was in charge of the area;
- Two engineers from the CTC (building technical control);
- A specialist of the ANSS (architect or archaeologist);
- A representative of APC *Casbah*; and
- A representative from the civil protection office.

The objective of these commissions was to carry out field scanning and make general observations about all the buildings in the *Casbah*. Priority was given to listed buildings in an extreme and advanced state of degradation.

3.2.4 From 2016 onwards

By the end of 2016 and officially in January 2017,¹ the operations pertaining to the *Casbah* were transferred from the OGEBC to the Wilaya of Algiers.

Restoration operations were supported by various decentralised bodies, such as the Directorate of Public Facilities (DEP) and the Directorate of Development and Restructuring of Neighbourhoods (DARQ). The operations for emergency works was taken over by the OPGI of Hussein Dey. The OGEBC has become the technical arm of the OPGI of Hussein Dey and of the DEP. Its role has focused on the restoration studies launched in 2018. The studies that were carried out that year targeted the historic mosques of the Upper *Casbah*.

From March 2020, the COVID pandemic stopped the studies' progress and stalled the launch of projects within the *Casbah*. Until the summer of 2021, the administrations continued to be minimally staffed. Although 2021 saw a slow and gradual return to normal, certain completed restoration projects have been approved.

The following table summarises the evolution of the management of the *Casbah* in light of the evolving legislations.

Changes in supervisory authorities were more frequent before the issuance of Law 98–04. The presence of the CNERU lasted more than 10 years, from 1998 and 2010, which corresponds to the time it took for the various conservation plans that had been elaborated to abide by the new legislation.

Since the promulgation of Law 98–04, the supervisory authority has been the Minister of Culture, including the Wilaya (since the historic site is located within its administrative perimeter). The new law brought more precision, making supervision more stable and under the jurisdiction of the same authority.

Table 1 reflects the managerial actions pertaining to the main decisions and projects that are directly related to Ordinance 67–281 and Law 98–04.

¹ Interministerial meeting report.

	Year	Stakeholders/Contributors/ Organisations	Supervisory Authorities	Objectives/Projects
Before promulgation of law 98–04	1968	COMEDOR: Atelier Casbah	Presidency	1975: P.O.G. (general orientation plan): includes a renovation and restoration plan for the <i>Casbah</i>
	1973	Direction de la Culture & Sous- direction des Beaux-arts	Ministry of Information and Culture	Procedures are open to start the classifica- tion process of the <i>Casbah</i> of Algiers as a Historical Site and National Heritage
	1981	ETAU: Atelier <i>Casbah</i> + PNUD/ UNESCO	Ministry of Public Works and Construction	1981: Project for the Revaluation of the <i>Casbah</i> of Algiers—Preliminary Development Plan:
	1983	BEREP: Atelier Casbah	Ministry of Housing and Urban Planning	Under the supervision of the Ministry of Housing and Urban Planning, BEREP car- ries out studies relating to the <i>Casbah</i> on behalf of the Wilaya (OJ n°18 1983)
	1985	OFIRAC	Ministry of Urban Planning, Con- struction and Habitat	Action Plan – Programme of Priority Actions
	1986	OFIRAC	Wilaya of Algiers	1986 Master Development Plan and relate regulations
	1987	CNERU (OJ n°48 1980)	Ministry of Housing and Urban Planning	PUD: Master Urban Plan for the city of Algiers
	1989	Ministry of Information and Culture	Ministry of Information and Culture	First Decree by the Minister of Information and Culture approving the classification of the <i>Casbah</i> as National Heritage
	1990	Algerian Delegation to UNESCO	Ministry of Equipment	Procedures to classify the <i>Casbah</i> of Algier on the World Heritage list (ANAPSMH 1992
	1991	Ministry of Culture	Ministry of Culture	Publication of the decree on the classifica- tion of the <i>Casbah</i> as National Heritage in the Official Journal
	1992	UNESCO/WH Division	United Nations Organisation	Inscription on the World Heritage List
	1998	CNERU & DARQ	GGA: Great Governorate of Algiers	GPU: Grand Urban Project
After promulgation of law 98–04	2000	CNERU	Wilaya of Algiers	Elaboration of a Safeguarding Plan
	2006	DCWA & CNERU	Ministry of Culture	Elaboration of the Permanent Plan for the Safeguarding and Enhancement of the Safeguarded Sector of the <i>Casbah</i> (PPSMVSS)
	2010	OGEBC & CNERU	Ministry of Culture	Implementation of the first phase of the PPSMVSS related to the <i>Casbah</i> (emer- gency works)
	2013	OGEBC & ANSS	Ministry of Culture	Elaboration of the action plan (<i>Plan d'attaque</i>) by la Cellule <i>Casbah</i>
	2016	DEP & DARQ & ANSS	Wilaya of Algiers/Ministry of Culture	Implementation of the <i>Plan d'Attaque</i> and other emergency works
	2017	DEP & DARQ & ANSS & OGEBC	Wilaya of Algiers/Ministry of Culture	Launching of restoration works for 5 buildings and studies on the restoration of mosques, historic monuments and other buildings inside the Safeguarded Sector

Table 1 Evolution in the management of the Casbah under Ordinance 67–281 and Law 98–04

Other historic preservation and revitalisation projects were implemented during the last decade, such as the metro project and its museum station, the European 'Turath' project (a path linking the fortifications of the *Casbah*, passing through its mosques), the restoration of the Ketchaoua Mosque as a result of Algerian-Turkish cooperation, artists' exhibits, the ATRC (technical workshop for the revitalisation of the *Casbah*) (Ouar 2019), the project by Ateliers Jean Nouvel (with a contract signed between the Wilaya of Algiers and the Île-de-France region in March 2017) and a conference in January 2018, which resulted in recommendations.

In January 2018, Algerian experts met under the aegis of an international conference jointly prepared by the Algerian Ministry of Culture and UNESCO and funded by the Japanese Government (UNESCO 2018). The conference also gathered other heritage experts who had been invited from all over the world to share their experience.

The conference, entitled 'International meeting of experts on the conservation and revitalisation of the Casbah of Algiers, a world heritage site', aimed to 'address key issues relating to the conservation and management of the site in order to propose an integrated and coordinated approach allowing the revitalisation of the Casbah' (UNESCO 2018).

The meeting consisted of several presentations on the management of urban sites across the world with issues similar to those of the *Casbah*; the presentations subsequently generated enriching debates.

The event closed with the head of the section for Arab countries at the World Heritage Centre making a list of recommendations, some of which we list below:

- Broaden the perspective on the *Casbah* and do not be occupied only by technical problems;
- Evaluate past experiences, which represent observations, in-depth analyses, and evaluations rather than audits (the goal is not to sanction or punish)—an evaluation, in the sense, constitutes self-criticism that enables improvements; evaluations must cover the institutional, administrative, legal framework, etc. (this is where our research has fallen short);
- Improve PPSMVSS through an integrated approach and continue to make it participatory;
- Consider interministerial cooperation, including especially the Wilaya because it is key, which will allow to get out of the vicious circle of housing/ rehousing as a transit point through the *Casbah*;
- Undertake preliminary impact studies for large infrastructure projects entailing the dynamics of the city and assess their footprints so that these dynamics are positive;

- the various administrative procedures, in particular by creating—from the existing focal points—an unfragmented single structure (interministerial and interdisciplinary);
- Ensure a monitoring mechanism exists at the national and international levels with the support of UNESCO — if the Algerian government so wishes;
- Improve the integration of all actors in the planning and implementation of actions;
- Advocate for a mix of functions and consider public facilities in the *Casbah* that would generate jobs and make the historic centre more dynamic.

4 The Conservation Plan (PPSMVSS) as an instrument to plan/manage the historic centre

In the following sections, an evaluation of the applicability of the PPSMVSS is provided. This evaluation is based on the analysis of the texts of the various Algerian laws that pertain to the protection of cultural heritage, including Law n°98–04.

4.1 The PPSMVSS: The Permanent Plan for the Safeguard and Enhancement of the Safeguarded Sector

The conservation plan is a planning tool that is positioned at the latest stage of intervention in the hierarchy of urban intervention instruments (Fig. 5).

The PPSMVSS sets general rules and land easements with respect to the PDAU (*Plan directeur d'aménagement et d'urbanisme*). According to Article 2 of the Executive Decree 03–324, the PPSMVSS must specify and indicate the buildings that are not '*subject to demolition or modification or those whose demolition or modification would be imposed*. The decree also indicates which architectural features must be preserved.

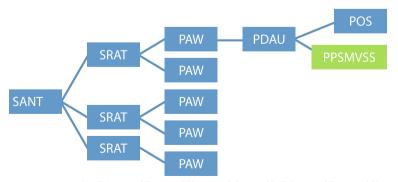


Fig. 5 Hierarchy of the planning instruments. SNAT: National Territorial Planning Scheme; SRAT: Regional Territorial Planning Scheme; PAW: Wilaya Development Plan; PDAU: Master Plan for Planning and Development; POS: Land Use Plan; PPSMVSS: Permanent Plan for the Safeguard and Enhancement of the Safeguarded Sector (Source: the author)

The PPSMVSS includes special measures for the protection of buildings within its perimeter, including monuments classified or registered on the list of the *additional* inventory or pending classification.

In accordance with Article 14 of Executive Decree 03–324, the PPSMVSS must contain three main documents: the presentation report, the regulations, and the appendices.

4.2 The PPSMVSS of the Casbah of Algiers

The executive decree 03–324 includes regulations for three different phases of development for the PPSMVSS; specifically, article n°15 lists those three phases:

- Phase 1: diagnosis and, if necessary, drafting of emergency measures;
- Phase 2: historical and typological analysis and preliminary drafting of the PPSMVSS; and
- Phase 3: final drafting of the PPSMVSS.

The decree that approved the PPSMVSS of the *Casbah* of Algiers was accompanied by written and visual documents, which were listed in article n°4.

4.2.1 The presentation report

The presentation report pertaining to the protected area/ SS of the *Casbah* of Algiers addresses the legal framework, the approach and methodology used to conduct the study, and an overall diagnostic synthesis of the state of degradation of the various buildings. This synthesis is followed by an analytical study, a historical analysis, a typological analysis, and an analysis of the infrastructure and various networks.

4.2.2 The regulations

The regulations to be applied are divided into three categories: 'general provisions', 'provisions applicable to the various subsectors of the SS', and 'special requirements'.

These provisions list the conditions for the application of the regulations and makes DCWA responsible for it, in concertation with the presidents of APCs when regarding demolitions or transformations that may impact the SS

In the regulations the SS is divided into four subsectors. Each subsector corresponds to specific regulations associated with the typology of the buildings and the significance of the monuments existing within the perimeter of each subsector.

The regulations also define different activities that can be taken inside the SS, such as conservation, restoration, consolidation, rehabilitation, new construction, and development works. The regulations also suggest that several projects be undertaken: the creation of the Marine Museum, the opening of the dock to the public, the relaunch of the Millennium Project and the removal of sand from the northern part of the pier.

4.2.3 Appendices

Several documents are annexed to the PPSMVSS of the *Casbah*; those include maps related to the historical development of the old city and the important water sources as well as the history of archaeological marker from previous periods. Written documents are annexed for a better presentation.

5 Evaluation of the PPSMVSS in relation to national laws

This study provides an analysis of the positive implementation of the *application texts* of the national law on cultural heritage and a discussion of the anomalies that make the application of some of these texts difficult or even impossible. Thus, we address the various laws that complement Law 98–04.

5.1 Cultural Heritage Law n°98–04 (1998) and its implementation

There are more than 27 safeguarded sectors in Algeria, but only three of them have approved PPSMVSSs (Algiers, Constantine and Dellys's casbahs).

Law 98–04 contains five articles related to safeguarded sectors. There are two enforcement texts pertaining to the implementation of Law 98–04 on safeguarded sectors. The first is an executive decree that emerged in 2003 regarding the procedures to follow for establishing a permanent plan for the safeguarding of heritage and for enhancing safeguarded sectors. The second is Decree 11–01 (OJ n°01 2011a), which amended and supplemented the Executive Decree 03–324 cited above.

An analysis of coordination between these decrees about implementation of the PPSMVSS and the directives of the regulations of the PPSMVSS is discussed below:

5.1.1 Executive decree n°03-324 (2003), modified in 2011

Article 45 of Law 98–04 is concerned with the protection of cultural heritage and stipulates that 'the development, instruction, content, and implementation of the permanent safeguarding and enhancement plan, as well as the safeguarding measures applicable before its publication and the conditions for its modification, revision and regular updating will be specified in a regulatory text'. Decree n°03–324 comes for the application of this article (OJ n°60 2003b). This decree was amended in 2011 through Decree n°11–01 when the National Agency for Safeguarded Sectors (ANSS) was created.

5.1.2 Executive decree n°11–01 (2011): PPSMVSS implementation goes from the DCWA to the ANSS

Decree n°03–324 stipulates in article 17 that 'the director of culture of the Wilaya (DCW), in consultation with the president(s) of the municipalities (APCs) concerned, is responsible for the implementation and management of the PPSMVSS'. This article was amended in 2011 by Decree n°11–01, which affirms the creation of a new entity responsible for the implementation of the PPSM-VSS and its application; the decree does not refer to 'managerial action'.

This modified article transfers the task of implementing and applying the PPSMVSS from the Direction of Culture (DCW) to the ANSS.

Nevertheless, in the regulations of the PPSMVSS, it is stipulated that it is up to the DCWA to proceed with the implementation of the PPSMVSS and to submit authorisations for all types of work within the protected perimeter of the safeguarded sector of the *Casbah*. In fact, article 2.2 of the PPSMVSS regulations stipulates '... [when it comes to] the act of establishing the safeguarded sector and the approval of the plan inherent to it, the director of culture of the Wilaya of Algiers ensures the monitoring of the latter and of any development which may occur there in order to preserve its aesthetic character and, in particular, to preserve buildings which are of archaeological, historical, architectural or urban interest ...

Within the perimeter of the safeguarded sector, all work relating to the exterior and interior arrangements ... are subject to the assent of the director of culture of the Wilaya of Algiers, in consultation with the presidents of the $APCs^2$ concerned...'.

Although the PPSMVSS and related rules were approved in March 2012 (one year after the promulgation of Decree 11–01 and the creation of the ANSS), the regulation included in the PPSMVSS does not include the agency (ANSS) at all or assign it a role for the implementation of the plan.

Article 17 was amended through Decree n°03–324; it stipulates that 'the implementation of the permanent plan for the safeguard and enhancement of the safeguarded sectors is ensured by a public institution created for this purpose, in consultation with the president or presidents of the popular assembly of municipalities (APCs) concerned'. This organisation leads to various deviations, contradictions or gaps in the legislative provisions; those are summarised below.

5.2 Contradictions and Deviations in Heritage legal provisions

The implementation texts of the law show an anomaly or contradict the regulation approved by the executive decree based on the joint report of the four ministers (the minister of culture, the minister of the interior and local authorities, the minister of regional planning and the environment and the minister of housing and town planning) (OJ n°18 2012).

5.2.1 Executive decree n°11-01 (2011)

- **1st deviation:** In Decree 11–01, some articles have not been modified; Article 19 of Decree n°03-324 stipulates that 'as soon as the PPSMVSS is published, the cultural office of the Wilaya concerned must make a decision concerning all the requests that have been part of continuous actions and notify interested parties of that decision'. As mentioned above, it has been the responsibility of the ANSS to implement the PPSMVSS since the promulgation of Decree 11-01, which amended Decree 03-324. However, the fact that articles 19 and 20 of the same decree were not modified leads to confusion concerning the functions attributed to the different bodies. In effect, in Article 4 of Executive Decree 11-02, which is concerned with establishing the ANSS, it is stipulated that some of the missions of the agency include the 'monitoring and control' of the implementation work and operations within the framework of the PPSMVSS. This mission is given to the DCWA in Article 2.2. of the PPSMVSS regulation mentioned above. In accordance with articles 22 and 23 of the Executive Decree 03–324, it is planned that the same procedure for the revision of the PPSMVSS are meant to be carry out.
- 2nd deviation: It can be construed from the above discussion that if a revision of the PPSMVSS is programmed, it is necessary to comply with Article 5 of Decree 03–324, which stipulates that it is up to the director of culture to proceed with choosing and hiring of a design company for the establishment of the PPSMVSS (its revision, in this case); the article does not mention the ANSS, which is the actual body responsible for the implementation of the PPSMVSS on the ground.

5.2.2 Executive decree n°11-02 (2011)

Regarding Executive Decree n°11–02 (OJ n°01 2011b), on January 5, 2011, the prime minister ruled by decree for the creation of the National Agency for Safeguarded Sectors (ANSS). The mission of the ANSS mainly consist of implementing the various conservation plans approved,

² Assemblée Populaire Communale: Popular Assembly of Municipalities concerned. The SS of the Casbah is spread over four municipalities.

as specified by the amended Article 17 of Decree 03–324 (mentioned above). Nevertheless, the agency also carries out other missions stipulated in Article 4 of the decree and aims to facilitate the implementation of the PPSM-VSS by specialists.

In this context, Article 16 of the decree stipulates the creation of the agency and the obligation of having a technical committee that monitors the studies and construction works carried out inside the protected areas and produces a semi-annual report detailing the progress of ongoing works within the safeguarded sector (OJ n°01 2011b). The composition of the technical committee is specified in Article 18 of the same decree; the committee must include the following:

- Three qualified architects (the qualifications are detailed in Decree 03–322) (OJ n°60 2003a)
- An archaeologist
- A historian
- **3rd deviation**: During an interview with the director of the execution and monitoring department within the ANSS, it was confirmed that there was effectively no technical committee within the agency.

5.2.3 Executive decree n°05-173 (2005)

In 2005, the Executive decree n°05–173, published in the Official Journal n°34 (OJ n°– 34 2005), created a safeguarded sector including the historic urban site of the *Casbah* of Algiers. An appendix accompanied this decree, which contained a map showing the boundaries of the safeguarded sector (Fig. 6).

When the safeguard plan was created, the design office in charge of the file, the CNERU, drew different boundaries from those presented in the appendix of Decree $n^{\circ}05-173$, which aimed at establishing the SS of the *Casbah* (Fig. 7).

• **4th deviation:** the discrepancy in the boundaries is observed near the port and the sea; however, the boundaries are the same with respect to the urban area. The PPSMVSS in this case was approved, although it did not encompass the entire area of the SS Although Law 98–04 includes underwater heritage in its definition of national heritage, the PPSM-VSS does not include any directive concerning the aquatic perimeter of the *Casbah*.

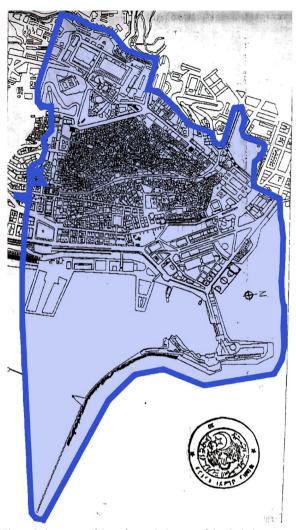


Fig. 6 Delimitation of the safeguarded sector of the Casbah as it appears on the decree that created the sector (Source: Decree $n^{\circ}05-173, 2005$)

5.2.4 Executive decree n°12-133 (2012)

 5th deviation: Executive Decree n°12–133 is the decree by which the PPSMVSS was approved for the *Casbah* of Algiers. It is related to the application of Article 16 of Executive Decree n°03–324.

Article 6 of this decree confirms that it is up to the ANSS to implement the PPSMVSS. However, this confirmation contradicts what is mentioned in Article 2.2 of the PPSMVSS regulations, which have been approved by this same decree.

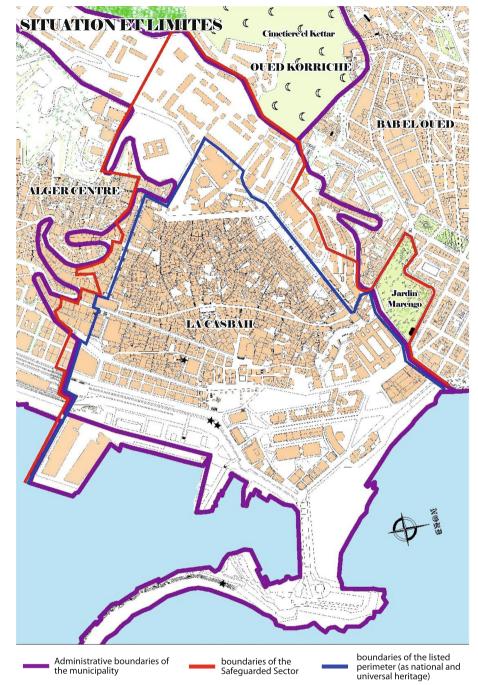


Fig. 7 Delimitation of the safeguarded sector (in red) of the Casbah as it appears on the PPSMVSS (Source: PPSMVSS of the Casbah, 2012)

5.3 Other decrees and legal provisions' articles

The following legal provisions are important to positively affect the current managerial conditions. These provisions were identified in the law and address some of the inhabitants' needs.

5.3.1 Qualifications of the architects working on cultural property

• A **6th deviation** can be added; it concerns the qualifications of the architects working on cultural

property. Indeed, the Executive Decree $03-322^3$ requires that a qualified architect must be part of the team of the project manager (*maître d'œuvre*) but not necessarily in the main contractor team (*maître d'œuvrage*), i.e., the APC, the Wilaya, and the DCW all play a role. The law stipulates that work on cultural property must be entrusted to project managers meeting the conditions embedded in professional qualifications; the law also stipulates the obligation to entrust the investigations and projects to approved design offices working with qualified architects. The Ministry of Culture grants architects their qualification (OJ n°63 2005; OJ n°68 2008).

5.3.2 Traders and craftsmen in the safeguarded sector

In the implementation text of Law 98-04 pertaining to the protection of cultural heritage, Decree n°05-490 of December 22, 2005, confirms the right to reintegrate tenants into restored cultural properties within the protected area (OJ n°83 2005b). This decree gives the tenants of these premises who hold commercial, craft-based or professional use of the premises the right to return there after the completion of conservation and restoration work, according to the conditions detailed in an annexed document to the proposed lease contract (OJ n°83 2005b; OJ n°75 2005). This permission contributes positively to the maintenance needs of restored properties and ensures better management and conservation of buildings in the SS while preserving the soul of the place by keeping the activities that protect people's livelihoods and the spirit of the place as important aspects of the Casbah's identity and inherent universal values.

5.3.3 State financial assistance

The Algerian state offers, through Law 98–04, financial assistance to private owners of cultural property in a direct and indirect manner for safeguarding, restoration, rehabilitation and enhancement operations. Entrepreneurs and real estate developers can also benefit from this scheme when they intervene on cultural property protected by this law.

In Article 84 of Law 98–04, the Algerian state grants up to 50% of the aid to owners of classified cultural property for restoration and rehabilitation work. Property owners who live in the classified property protection zone can benefit from this same assistance.

5.3.4 The right to housing

At the request of the owners, the state grants good faith occupants temporary or permanent relocation when the apartment buildings require work for their conservation. Law 98–04, through Article 89, offers a solution to encourage the owners of buildings included in a safe-guarded sector to maintain and conserve the sites that constitute a part of the heritage of the nation.

5.4 Law 90-29: PDAU (2012)

As mentioned earlier, the PPSMVSS is part of the PDAU and is positioned higher up in the hierarchy of that master plan. The last revision of the Algiers PDAU started in 2006, i.e., 6 years before the approval of the PPSMVSS.

The PDAU includes several projects in the Bay of Algiers, with the creation of 8 promenades, including 3 located in the *Casbah*.

These three promenades are located inside the safeguarded area. According to Boukader & Chenaoui, there has been a conflict between the proposals in the PDAU and the PPSMVSS regulations (Boukader and Chennaoui 2022).

Indeed, the PPSMVSS does not make any mention of the PDAU or the proposed promenades.

Those proposals also require that the projects be located within the limits of the SS of the *Casbah*, which falls under the jurisdiction of the PPSMVSS. The PDAU does not address this question or that of how these projects will be managed, nor does it clarify how regulations will be implemented with regard to the PPSMVSS (Boukader and Chennaoui 2022).

 7th deviation: There has been no coordination between the two urban planning documents (PPSM-VSS and PDAU).

5.5 Waqf Law 91-10: (1991)

Habous or waqfs properties constitute a completely original institution invented by Islamic law (Khalfoune 2005). This legal institution is referred to as '*Waqf* mainly in the Middle East, while it is called '*habous*' in the Maghreb states⁴; it finds its origin in a *hadith*⁵ of the Prophet (PBUH) and is related to a directive that provides for the mobilisation of an endowment fund reserved for charitable gifts (where the property must not be sold or given away, but rather preserved and conserved) (Khalfoune 2005).

A law was promulgated on April 27, 1991, entitled Law 91–10 relating to *Waqf* property; it defines the general rules by which the *Waqf* assets are organised (including the question of preservation and protection).

³ Executive Decree of October 5th 2003 of project management relating to protected immovable cultural property.

 $^{^{\}rm 4}$ In Algeria, the expressions 'waqf' and 'habous' are used indiscriminately.

⁵ The *hadith* includes all the accounts of the words of the prophet Mohammad and has a normative value in Islamic law.

8th deviation: Article 46 of the Law of Waqf Properties addresses the role of the Ministry of Religious Affairs and Waqf Properties and specifies that the authorities concerned should be 'empowered to accept Waqfs⁶ and ensure their MANAGEMENT and PRESERVATION'. However, no action has been taken thus far concerning Waqfs buildings (OJ n°21 1991; OJ n°90 1998).

The *Casbah* of Algiers used to include a significant number of *Waqfs* before the period of colonisation. The great mosque of Algiers contained 125 houses, 3 bakeries, 107 neighbourhoods and types of livelihoods, 39 shops and 19 gardens (Khalfoune 2005).

• **9th deviation**: Law 91–10 divides *waqfs* into two types: *public and private*. Today, there are only 41 buildings that are legally recognised as Habous in the PPSMVSS, but there is no distinction between private and public *Waqf* properties. This lack of designation makes it difficult to complete the implementation of the tools programmed by the PPSMVSS, and it also makes this implementation confusing.

Of the 41 *Habous* buildings in this safeguarded sector, there are 8 mosques, as well as koranic schools, hammams, court houses and residential buildings. Only 10 *Habous* buildings were proposed for restoration in the 2016 '*plan d'attaque*', and those included four mosques.

5.6 Orientation of the City Law n° 06-06 (2006)

The law of the orientation of the city issued on February 20, 2006, has the objective 'to fix the particular provisions aiming to define the elements of the policy of the city within the framework of the policy of regional planning and sustainable development' (OJ n°15 2006).

This law has been implemented within the scope of a national-scale decentralisation strategy aiming at deconcentrating, developing and improving the efficiency of local management. In addition to these four main axes, the law also aims at human development, sustainable development, information, social equity, good governance, culture and preservation (OJ n°15 2006).

Among its objectives, this urban policy (*la politique de la ville*) aims to *'guide and coordinate all interventions'* and is based on several components that are multidimensional, multisectoral and multilateral, such as sustainable development, urban economy, urban design, culture, and management.

In order to attain sustainable development, the protection of the natural and cultural environment is stipulated. The urban and cultural component aims to control urban growth by preserving the elements of the city and ensuring that multiple missions can be realised, such as 'the preservation and enhancement of the city's cultural, historical and architectural heritage'.

The preservation of built heritage is an integral part of urban policy of the city and must be ensured by the local authorities, 'which must take charge of the management of their respective cities for all issues concerning their development, the preservation of their built heritage, their functioning and the quality of life of their inhabitants' (OJ n°15 2006).

Through the law on 'orientation of the city', the state plans to move to participatory interventions, which highlight the need to associate citizens and integrate them into programs relating to the management of their living environment. Law 06–06 offers several instruments that serve to facilitate the management of the city through different components. The law thus considers the PPSM-VSS as a planning instrument that is classified as a spatial and urban planning component.

5.7 Finance Laws of 2015 and 2018

The Algerian finance law of 2015 contributes a timid solution that is not specific to historic centres but applies the definition of owners of property across the national territory and identifies them in the cadastre in accordance with Ordinance n°75–74 (OJ n°92 1975). Ordinance n°75–74 about 'establishing a general cadastre and institution for land registration' defines the cadastre as the instrument that '*identifies the physical consistency of buildings and serves as the material basis for the land register*.' The ordinance also defines the land register as an instrument with which we can '*establish the legal status of buildings and indicate the circulation of real estate rights*'.

Law n°14–10 (OJ n°78 2014), known as the '2015 finance law', adds to Ordinance n°75–74 an article concerning unclaimed buildings, stipulating that these buildings should be automatically registered during cadastral operations under the name of the state in an 'account of unclaimed property during cadastral operations'. In December 2017, the issuance of the '2018 finance law' provided more details regarding the application of this text (OJ n°76 2017).

Within the management and implementation framework of the PPSMVSS of the *Casbah*, the solution proposed by the state enables the institutions in charge to take the initiative to intervene on buildings that their owners are unknown and temporarily registered them under the above cited account of unclaimed property.

⁶ Therefore, they are also empowered to refuse and to request modifications.

Therefore, the authorities can easily programme restoration and rehabilitation works that will prevent the degradation of the urban fabric of the *Casbah* from continuing.

If 15 years pass without a property being claimed, the state permanently acquires it. However, if there is a claim before the end of that period, the relevant state services (the land conservation office) are responsible for carrying out an investigation before attributing the property to its claimant owner under Article 89 of Law n°17–11 (OJ n°76 2017). If rehabilitation works are being undertaken on a property listed under the 'account of unclaimed property' and a claim is made, the PPSMVSS must respond to the situation.

• **10th deviation:** Unfortunately, to this day, the PPSMVSS of the *Casbah* of Algiers has not been updated or revised since its approval in 2012. Therefore, the solutions proposed by the finance laws of 2015 and 2018 have still not been applied to the safeguarded sector of the *Casbah* of Algiers.

The expert jurist Ms. Zadem Rachida, former Director of Legal Protection of Cultural Properties at the Ministry of Culture, specified during a conference organised by the Ministry of Culture in May 2021 that this legislative opening makes it possible to solve the legal problems faced by owners of buildings in the *Casbah*.

Five years have passed since the promulgation of Law n°17–11, which has provided us with details about starting the procedures of this legislative opening, and it is still not implemented.

5.8 Executive decree n°16-55 regarding interventions in old urban fabrics (2016)

This decree proposes to intervene to rehabilitate the old urban fabric, improve the conditions of conservation and the use or renovation of urban districts through the restructuration, rehabilitation or renewal of state networks, buildings, edifices, infrastructures, equipment and public spaces. (OJ n°07 2016)

 11th deviation: According to Rachid Sidi Boumedine,⁷ the decree must be completed to apply to the urban fabric when sites are described as 'historic', since there is no mention of the word 'historic' in these old urban fabrics in Decree 16–55 (Sidi Boumedine 2019). Sidi Boumedine also specifies that the decree must apply to the perimeter zones of the safeguarded sectors, or that a new decree must be produced specifically to deal with the limits linking the safeguarded sectors to the rest of the city. (Sidi Boumedine 2019).

The existence of such a decree comes as an aid in the preservation of unclassified urban heritage, which can also be found in the neighbourhoods around the SS of the *Casbah*. If a revision of the PPSMVSS is decided upon soon, this decree can facilitate a reflection on continuity with the surrounding neighbourhoods. Although these neighbourhoods emerged during the colonial period, they link the *Casbah* to the rest of the metropolis of Algiers.

This decree was promulgated by the Ministry of Housing, which suggests close coordination between the different ministries based on a multidisciplinarity that allows a broader perspective to examine historic centres, their evolution and their preservation (Fig. 8).

6 Conclusions and Practical Recommendations

In the legislative and *application texts* of Law 98–04, as well as in the implementation and the application of its PPSMVSS, the same entities or directorates are in charge (by law) of the 'management' of the historic site of the *Casbah*. These institutions include the Directorate of Culture of the Wilaya of Algiers and the municipalities concerned. Since 2011, another organisation has been added: the National Agency for Safeguarded Sectors (ANSS). On the ground, however, the organisations present in the field include others than those dictated by the law and legislative texts.

The conference organised in January 2018 concluded with the suggestion that a single structure should be established that includes all the institutions at stake, centralises information and can make decisions with a high degree of autonomy; however, this solution would do away with the precise aspects of the law and bring back complexity to the management of the historic city. In the context of all the organisations mentioned in this paper, the law should coordinate what must be programmed; otherwise, the law needs to be revised to remove all those organisations and create a single centralised institution under one supervisory authority.

The Wilaya and, the OGEBC since its creation in 2006, have been more present than other organisations and equipped with qualified and more experienced staff.⁸ However, the Office of Culture of the Wilaya of Algiers, which was about to see an improvement in staffing in accordance with Article 17 of Decree 03–324, saw this project repealed with the issuance of Decree 11–01, which assigned the mission to the ANSS. Unfortunately,

⁷ sociologist—urban planner specialising in the Casbah since the time of COMEDOR.

⁸ The staff of the OGEBC was mainly that of the Archaeological Agency after its restructuring in 2005; therefore, these staff members were already familiar with the different issues in urban and archaeological heritage management.

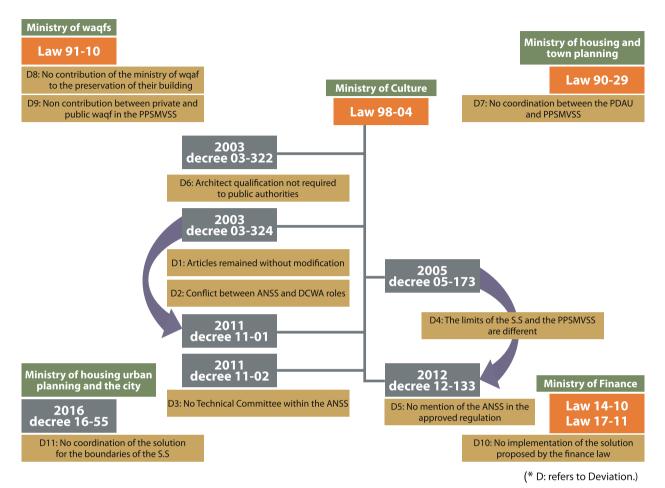


Fig. 8 Explanatory Diagram showing the Evolution of the Legislative Provisions Pertaining to the Management of the Living Historic Centre of the *Casbah* of Algiers (Source: the author)

even ANSS has not benefitted from this development, despite what is stated in article 17 of decree 03–324, since the ANSS does not include, until now, a technical committee.

Regardless of the application of Article 16 of Executive Decree 03–324, Decree 12–133 does not take into consideration, among the views consulted, other laws, such as the law on the urban orientation of the city, Law n°06–06. It also does not consider the statements made as part of the PPSMVSS regulations, in which its implementation goes to the Directorate of Culture, while the decree itself grants it to the ANSS.

Law 06–06 related to the Orientation of the City (issued in 2006) is perceived as avant-garde in relation to the orientations and objectives drawn in international doctrinal documents and in approaches that appeared later in texts that emerged as guiding documents, including the Valletta principles (issued in 2010), the HUL Recommendations and the SDGs (the latter two having been elaborated in 2011). The law encourages a participatory approach and the improvement of standards of living, considering all scales of intervention and actions to be undertaken on the ground for better governance of the metropolitan city and its core historic areas.

Although Law 06–06 considers the PPSMVSS to be a planning instrument, the safeguarding plan unfortunately gives more importance to its technical aspects than the other aspects of preservation, which makes it difficult to apply in the face of the lack of a well-rounded approach that holistically takes legislative developments into consideration. The technical aspects constitute only a partial solution among many other solutions that include the cultural, social, economic, legal, scientific and scholarly dimensions of the preservation and enhancement of the historic centre.

The law of the orientation of the city proposes an enhanced governance of the city as it addresses all of these components including the projecting of preservation of the heritage and its development. Moreover, the law provides robust guidance and procedures to be implemented. On the one hand, Executive Decree n°16–55 complements and ensures a link between the Ministry of Housing and the Ministry of Culture, as it proposes interventions in old unclassified neighbourhoods, aiming at preserving their historic character; on the other hand, the Ministry of Culture should propose the classification of these neighbourhoods as national heritage assets.

Therefore, it can be concluded that the development of laws and legal instruments concerning the protection of heritage should continue, especially in regard to living historic centres such as the *Casbah*. Living historic urban centers are part of the city and should benefit from the historic assets of the city to invest on actual opportunities linked to their historical and cultural values.

Indeed, the Algerian government has passed several laws, as discussed above, ranging from laws on finance and urban projects to waqf laws, which are not directly related to heritage preservation but can be associated with Law 98–04. These laws can provide solutions to problems not addressed in heritage protection instruments (e.g., the PPSMVSS).

Specialists are often aware of which procedures to undertake, but the practical difficulty of implementation remains a major obstacle in governmental structures because of several reasons, including the lack of communication between the different stakeholders and the lack of qualified personnel actively working in this field.

Based on the issues examined above, the following recommendations to the government can be made:

- Regarding the areas of the current SS of the *Casbah* of Algiers, which are outside the Municipality of the *Casbah* boundaries, it is recommended that these should be eliminated from the perimeter of the SS and instead addressed under Decree 16–55. This shift would allow for better management in the safeguarded sector of the *Casbah* because it would give rise to a single interlocutor—the APC *Casbah*—rather than maintaining the four APCs (*Casbah*, Babel-Oued, Oued-Koreich and Central Algiers).
- Article 22 of Executive Decree n°03–324 is concerned with revisions in the conservation plan; it should have been amended in 2011 with the creation of the ANSS. Therefore, we recommend that this act be given to the ANSS team, which is in direct contact with the difficulties encountered in the field, and is aware of the anomalies, and therefore is able to update the PPSMVSS in order to propose solutions as to its applicability.
- Address a solution for the needed qualification of *architects dispatched to work on sites and monu-ments,* which could be delivered by the Ministry of Culture, which in turn would devise contracts for

specialised architects working in the conservation and management of sites and monuments; therefore, these architects would be able to work within decentralised cultural services such as DCW, municipalities, and the ANSS for a specified number of years.

- Start to apply the solution indicated in the finance laws (2015 and 2018) by including the procedures into an action plan over the short, medium and long terms.
- Elaborate a management plan as soon as possible. However, as the regulations do not mention the need for this plan, it is recommended that an executive decree or regulation be promulgated in the near future to provide details on implementation and about the bodies that oversee this management plan.

Abbreviations

ANSS	National Agency of Safeguarded Sectors (Agence
APC	Nationale des Secteurs Sauvegardés)
Arc	Municipality's Popular Assembly (Assemblée Populaire Communale)
APW	Wilaya's Popular Assembly (Assemblée Populaire de Wilaya)
ATRC	Atelier Technique pour la Revitalisation de la Casbah
BEREP	Study Office for the Restoration and Preservation of Old Districts (Bureau d'Etudes de Restauration et de Préserva- tion des Vieux Quartiers)
CNERU	National Centre for Studies and Applied Research
	in Town Planning (Centre National d'Etudes et de
	Recherches appliquées en Urbanisme)
COMEDOR	Standing Committee for the Study and Develop-
	ment of Organisation and Planning of the agglom-
	eration of Algiers (Comité Permanent d'Etudes et de
	Développement, d'Organisation et d'Aménagement de
	l'Agglomération d'Alger)
DARQ	Neighbourhood Planning and Restructuring Department
DCWA	(Direction d'Aménagement et de Restructuration des Quartiers) Direction of Culture of the Wilaya of Algiers (Direction
DCWA	de la Culture de la Wilaya d'Alger)
DEP	Direction of Publics Equipment (Direction des Equipements
	Publics)
ETAU	Central Study Office for Public Works, Architecture and
	Urban Planning (Bureau Central d'Etudes et de Travaux
	Publics, d'Architecture et d'Urbanisme)
OFIRAC	Office for the Intervention in and Regulation of Development
	operations in the Casbah of Algiers (Office d'Intervention et de
0.050.0	Régulation d'Opération d'Aménagement de la Casbah d'Alger)
OGEBC	National Office for the Management and Exploitation
	of Protected Cultural Goods (Office National de Gestion
OPGI Hussein Dey	et d'Exploitation des Biens Culturels Protégés)
OPGI Hussein Dey	Promotion Office for the Property Management of Hussein Dey (Office de Promotion et de Gestion Immobilière de Hussein Dey)
PDAU	Master Plan for Development and Urbanism (<i>Plan</i>
1 0/10	Directeur d'Aménagement et d'Urbanisme)
POS	Land Use Plan (<i>Plan d'Occupation des Sols</i>)
PUD	Master Urban Plan (<i>Plan d'Urbanisme Directeur</i>)
SS	Safeguarded Sector (Protected Area) (Secteur Sauvegardé)

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