

The Legislative and Regulatory Reference Framework for Environmental Administrative Regulation in Algeria

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El marco legislativo y reglamentario de referencia de la policía administrativa ambiental en Argelia

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Abstract

For more effective environmental protection, the power of environmental control has been entrusted to administrative bodies, since they are closer to individuals. This power is divided into two parts: protective powers, which operate according to several systems, such as the licensing system, which includes the building permit, the authorisation to operate classified installations, and the hunting permit. In addition, to provide this protection, they use the systems of notification and encouragement. Concerning the curative powers, they use relative prohibition and absolute prohibition in case of a threat to the environment, and obligation in order to compel individuals to carry out environmental protection activities. Furthermore, the legislator has provided mechanisms for imposing sanctions, whether administrative or criminal. Administrative sanctions comprise the written warning, the administrative fine, the temporary suspension of activity, the restriction on the use of certain materials, and sometimes the punishment extends to the withdrawal of the licence. In the case of an environmental offence, the administration applies principal, complementary or accessory penalties, depending on each case, with reference to the Penal Code and to special laws.

Keywords: environmental control, protection, administration, the Algerian legislator.

Resumen

Para garantizar una protección ambiental más eficaz, se ha encomendado a los órganos administrativos la potestad de policía ambiental, dada su mayor proximidad a los ciudadanos. Esta potestad comprende dos vertientes: las facultades preventivas y las correctivas. Las primeras se ejercen mediante diversos instrumentos, como el régimen de autorizaciones, que incluye la licencia de construcción, la autorización de explotación de instalaciones clasificadas y la licencia de caza. Asimismo, se recurre a los mecanismos de comunicación previa y de fomento para asegurar dicha protección.

En cuanto a las facultades correctivas, se emplean la prohibición relativa y la prohibición absoluta cuando existe una amenaza para el medio ambiente, así como la imposición de obligaciones para exigir a los particulares la realización de actuaciones de protección ambiental. Además, el legislador ha previsto mecanismos sancionadores tanto administrativos como penales. Las sanciones administrativas comprenden el apercibimiento por escrito, la multa administrativa, la suspensión temporal de la actividad y la restricción del uso de determinados materiales, pudiendo llegar incluso a la revocación de la autorización. En caso de infracción penal ambiental, la Administración aplica, según corresponda, penas principales, complementarias o accesorias, con arreglo al Código Penal y a las leyes especiales.

Palabras clave: policía ambiental; protección; Administración; legislador argelino.

Introduction

The task of environmental administrative regulation is entrusted to the administrative bodies responsible for guaranteeing the achievement of public order. This is so from the formal standpoint; however, it should be noted that administrative regulation is also a body of substantive rules that govern aspects of individuals' lives relating to their environmental surroundings, such as public health, security, sanitation and the like. In elaborating on the subject, we addressed the body of texts and procedures that the administration adopts as a means of achieving environmental administrative regulation, particularly the rules laid down by the Algerian legislator. What, then, are the mechanisms by which the bodies of environmental administrative regulation carry out their work?

To answer this question, we discussed the subject through two sections. In the first section, we addressed the legal powers possessed by the administration, or the executive and regulatory bodies, in order to perform the tasks of environmental regulation to the fullest extent, and this through two subsections: preventive powers as the first subsection, and remedial or subsequent powers as the second subsection. In the second section, we elaborated on the sanctions imposed on acts harmful to the environment, whether these consist of a breach by the operator of the activity that calls for an administrative penalty, which we included in the first subsection, or the criminal penalty imposed on a person who commits an environmental offence, which we included in the second subsection.

We presented the information using the descriptive-analytical method, setting out the procedures and laws laid down by the Algerian legislator in particular and analysing their content and substance.

Section One: The Powers Vested in the Administration in the Field of Environmental Protection

The first section covers the legal powers that enable the administration to achieve the best protection of the environment, and of individuals, against dangerous and harmful acts liable to threaten the environment and to squander individuals' right to enjoy a clean and sound environment as one of their individual and collective rights. It does so through the first subsection (preventive legal powers for the protection of the environment), such as constitutional, legislative and regulatory texts; then the mechanisms of prohibition issued by the administration to prevent certain conduct, whether absolute or relative prohibition of certain conduct; then licensing, which is an important mechanism issued by the central or local authority for the purpose of protecting the environment; then prior notification of individuals' activities, which is subject to the administration's assessment of the extent of their harm to the environment; and incentives, as a means by which the administration encourages individuals to preserve the environment.

As for the second subsection, we addressed (the subsequent legal mechanisms for the protection of the environment), such as subsequent notification, which is a procedure that follows the occurrence of the activity, and obligation, which contains an element of compulsion against acts harmful to the environment in order to force their perpetrators to remedy them.

Subsection One: Preventive Legal Powers for the Protection of the Environment

In this regard, the Algerian legislator has laid down a set of preventive legal measures for the protection of the environment in its various aspects, whether they relate to the protection of water resources, the natural domain or the living environment, which have been addressed by the laws and fall within the general framework of environmental protection. Accordingly, the prior supervisory measures capable of protecting the environment are those legal instruments that prevent the occurrence of conduct contrary to the will of the legislator that may harm the environment in one of its components¹, and the most important measures are licensing, notification and incentives.

First: The licensing system: The licensing system is the authorisation issued by the competent administrative authority after examination of the technical file, fulfilment of the legal conditions and completion of the environmental impact study². Ordinarily, the law or regulation determines the conditions for granting the licence, its duration and the possibility of its renewal, whereas the administration undertakes the task of granting the licence if the necessary conditions defined by law are met³.

As for the authority competent to issue licences, it may be the local authorities by original jurisdiction ("the President of the Communal People's Assembly or the Wali (governor), in the field of building permits, for example"), or it may be the central authorities with respect to the establishment of projects of importance,

¹ Ibtiassam Boulqawas, "Administrative Procedures Capable of Protecting the Environment" paper presented at the National Forum on "The Role of Local Authorities in Protecting the Environment under the New Municipal Law and Wilaya Law", on 3 and 4 December 2012, Laboratory of Environmental Legal Studies, Faculty of Law and Political Science, 8 May 1945 University, Guelma, pp. 02, 03.

² Mohamed Lamsakh, **The Role of Local Authorities in Protecting the Environment**, Fifth International Forum on the Role and Status of Local Authorities in the Maghreb Countries, 3_4 May 2009, Journal of Judicial Jurisprudence, Mohamed Khider University, Biskra, p. 152.

³ Ibtiassam Boulqawas, op. cit., p. 03.

after obtaining the advisory opinion of the competent local body¹. This method has wide application in the field of environmental protection.

The rationale for imposing a licensing system in the environmental field is to enable the administration to intervene in advance in the manner in which certain activities harmful to the environment are carried out, which are linked to the preservation of environmental public order, so as to enable the administrative authorities to take the necessary precautions to protect society from the danger that may result from carrying them out in each case, according to its circumstances in terms of place and time, to monitor the conduct of the licensed activity, and to impose new requirements on its operation if the matter so requires².

The penal legislation has referred to many licences in the field of administrative regulation relating to environmental protection; accordingly, we shall confine the study to the most important applications of this method:

1. Building permit: At first glance there appears to be no relationship between the building permit and environmental protection; however, a reading of the provisions of Law 90-29 on spatial planning and urban development shows that there is a close relationship between environmental protection and the building permit, and that the latter is the most important of the licences expressing prior control over the environmental surroundings and the natural milieu. It constitutes an important aspect of the control exercised over the indiscriminate consumption of the surroundings, since the Law on Planning and Urban Development stipulated the necessity of obtaining a building permit for the construction of new buildings, whatever their use – except for projects protected by national defence secrecy, which the legislator exempted – and likewise for the renovation of, or any modification made to, a building³.

In the context of obtaining the building permit and its relationship with environmental protection, Article 07 of Law 90-29 stipulates that every building intended for housing must be supplied with a source of drinking water and must be equipped with a water drainage device that prevents water from flowing onto the surface of the ground, while Article 08 requires that facilities and buildings for professional and industrial use be designed in a manner that makes it possible to avoid discharging polluting waste and all harmful elements beyond the limits provided for in the regulation⁴.

There are also some areas relating to the granting of the building permit that are provided for in certain special laws, such as the law on environmental protection within the framework of sustainable development, where we infer from our reading of Article 45 thereof that the operations of construction, exploitation and use of industrial, commercial and craft buildings and establishments must comply with the requirements of environmental protection and with the avoidance and limitation of air pollution⁵.

2. Permit to operate classified installations: Attention to the problem of industrial and commercial establishments that cause nuisances to the neighbourhood and dangers to the environment did not emerge until 1976, through Decree 76-34 on hazardous, unhealthy and nuisance buildings and establishments that lack hygiene or are unsuitable. This decree is the first legislation to address the protection of the environment against the dangers of industrial pollution in Algeria⁶, after which came Environment Law 83-03, which regulated hazardous installations and called them classified installations, before it was repealed by Law 03-10 on environmental protection within the framework of sustainable development.

The Algerian legislator defined classified installations in Law 03-10 as those factories, workshops, craft shops, stone quarries, mines and, in general, the installations operated or owned by any natural or legal

¹ Mohamed Lamsakh, op. cit., p. 152.

² Mohamed El-Amine Kamel “**Administrative Licences and Their Role in Preserving the Environment**” paper presented at a national forum on “The Role of Local Authorities in Protecting the Environment under the New Municipal Law and Wilaya Law”, 3–4 December 2012, Laboratory of Environmental Legal Studies, Faculty of Law and Political Science, 8 May 1945 University, Guelma, p. 05.

³ Ibtissam Boulqawas, op. cit., p. 04.

⁴ Articles 07 and 08 of Law 90-29 on planning and urban development, op. cit.

⁵ Article 45 of Law 03-10 on the environment, op. cit.,

⁶ Article 01 of Decree 76-34 of 20 February 1976 on dangerous and unhealthy or nuisance buildings, Official Gazette No. 21 dated 12 March 1976

person, public or private, that may cause dangers to public health, hygiene, security, agriculture, ecosystems, natural resources, sites, monuments and tourist areas, or may cause prejudice to the tranquillity of the neighbourhood¹.

From this definition, it can be said that classified installations are those installations that are considered fixed sources of pollution and pose a danger to the environment.

It should be pointed out in this context that the Algerian legislator has divided classified installations into two categories: installations subject to licensing and installations subject to declaration, whereby the installations subject to licensing represent the more hazardous class than those subject to declaration², whereas the installations subject to declaration are those that do not cause any danger or nuisance to the interests provided for in Article 74 of Law No. 83-03 on environmental protection³.

In view of the new regulation governing classified installations, the legislator has ranked the installations subject to licensing and declaration into four classes, according to the degree of the dangers or nuisances arising from their operation:

- Classified establishment of the first category AM “Autorisation Ministérielle”: comprises at least one installation subject to a ministerial licence, for example a pesticide warehouse whose total capacity exceeds 150 tonnes.
- Classified establishment of the second category AW “Autorisation de wali”: comprises at least one installation subject to a licence from the Wali (governor) competent territorially, for example “a pesticide warehouse whose capacity is less than or equal to 150 tonnes”.
- Classified establishment of the third category APAPC “Autorisation du président de apc”: comprises at least one installation subject to a licence from the President of the Communal People’s Assembly.
- Classified establishment of the fourth category D “Déclaration”: comprises at least one installation subject to the declaration system before the President of the Communal People’s Assembly competent territorially, for example “an industrial bakery whose production capacity exceeds 0.5 tonnes per day and is less than or equal to 5 tonnes”.

In the same vein, waste installations have also been subjected to this classification⁴, as Article 42 of Law 01-19 stipulated that every waste treatment installation must, before beginning its operation, be subject to:

- A licence from the Minister in charge of the environment for special waste.
- A licence from the Wali (governor) competent territorially for household and similar waste.
- A licence from the President of the Communal People’s Assembly competent territorially for inert waste.

Executive Decree 07-144 of 19 May 2007 came to clarify the idea of classified installations and to explain and define certain terms associated with them, such as what is meant by substances and preparations, and when they are toxic or highly toxic..., and it indicates when they are subject to a ministerial, provincial or communal licence, when they require merely a declaration before the President of the Communal People’s Assembly, and when they require an impact study or a hazard study.

3. Hunting licence: In order to preserve biodiversity, protect wildlife and prevent the disruption of ecological balance, the Algerian legislator regulated the practice of hunting and made it subject to a licence. Law 04-07 on hunting⁵ laid down the general principles relating to the practice of hunting, namely determining the conditions of hunting and of hunters, preserving hunting resources and working to

¹ Article 18 of Law 03-10

² Mermoul Moussa, Jriou Adel, paper entitled “**The Powers of the President of the Communal People’s Assembly in the Field of Environmental Protection and the Activity of the Communal Administrative Units in the Field of Public Health**” national forum on “Environmental Protection between the Role of Local Units and the Requirements of International Law”, 26–27 June 2013, Laboratory of Studies and Research on the Maghreb and the Mediterranean, University of Constantine 1, , p. 11.

³ Article 21 of Decree 98-339 of 03 November 1998 laying down the regulations applicable to classified installations and defining their list, Official Gazette No. 82 dated 04 November 1998, as amended by Law 06-198, op. cit.

⁴ Article 42 of Law 01-19 on waste management, control and disposal .,

⁵ Law 04-07 of 14 August 2004 on hunting, Official Gazette No. 51, dated 15 August 2004.

promote and develop them, and prohibiting all hunting or any activity related to it outside the areas and periods provided for in this law¹. Article 06 also determined the conditions for practising hunting, requiring the hunter to hold a hunting licence as well as a hunting permit, to be a member of a hunters' association, and to hold a valid insurance policy covering his civil liability as a hunter and his criminal liability for the use of firearms or other hunting means. According to Article 07, the legislator considered that the hunting licence is what expresses the hunter's eligibility to practise hunting; it is personal and may not be assigned, transferred, lent or leased. Accordingly, the hunting licence is issued, and its validity attested, by the Wali (governor) or his deputy or the head of the *daira* in which the applicant's place of residence is located, and it is valid throughout the national territory for 10 years and is renewed under the same conditions². Thus the Algerian legislator gave the power to grant this licence to the Wali so that he may regulate the practice of hunting in accordance with the laws and regulations, so that it does not become indiscriminate, threatening the environment and biodiversity by disrupting the natural balance and, consequently, causing the extinction or death of some animals.

Second: The notification system

The administration may allow persons to carry out certain acts, and through notification it can monitor the activity

A. Prior notification: It is required before the activity is carried out, whereupon the administration examines its effects on the environment and either leaves it or prohibits it if its danger or harmful effect is established, for example notification of the date of transport of hazardous materials and of their route until their arrival

B. Subsequent notification: It takes place a certain period after the activity is carried out, determined by the administration so as to enable it to exercise control after the end of the activity³

Third: The incentive system

It consists in granting certain material and moral advantages to those who undertake acts that contribute to the protection of the environment, such as tax exemptions or legal facilitations for whoever establishes a waste recycling or recovery plant, as encouragement by the legislator for the protection of the environment⁴

Subsection Two: Subsequent Legal Powers for the Protection of the Environment

First: The prohibition system: Alongside the licensing system, which is considered the most important means used by local authorities in the field of environmental protection, there are measures that take the form of orders, and the latter take two forms: either an order of obligation or an order of prohibition, and some come in the form of an obligation to submit declarations or reports, all of which aim at one single goal, namely the protection of the environment⁵.

For the method of prohibition to be lawful, it must be final and absolute, and the administrative authority must not abuse it to the point of infringing individuals' fundamental rights and freedoms, nor must it turn into an unlawful act and become a mere material assault or an act of usurpation, as administrative law jurists call it. The law often resorts, in its protection of the environment, to prohibiting certain conduct whose danger and harm to the environment it assesses, and this prohibition may be absolute or relative⁶:

1. Absolute prohibition: The latter is one of the predominant and most common types of prohibition in environmental protection laws, whereby the legislator enacts certain laws through which it prohibits certain conduct that is highly dangerous and likely to cause serious harm to the environment and the natural surroundings. This prohibition is therefore a categorical ban that admits of no exceptions and is not subject to the procedures to which administrative licensing is subject⁷; absolute prohibition is a share reserved to

¹ Article 03 of Law 04-07

² Articles 08 and 11 of Law 04-07

³ Ahmed Lakhal, *The Role of Local Authorities in Environmental Protection*, Dar Houma for Publishing, 2nd edition, Algeria, 2016, p. 207, p. 208

⁴ Ahmed Lakhal, *op. cit.*, p. 208

⁵ Boulqawas Ibtissam, *op. cit.*, p. 10.

⁶ Majed Ragheb Al-Helou, *op. cit.*, p. 129.

⁷ Boulqawas Ibtissam, *op. cit.*, p. 11.

the legislator, and all the administration has to do in this case is to implement the legal rules without expanding its powers¹ “such as dumping garbage in places other than those designated by the local authorities, which is what the laws and regulations of the commune provide.”

Article 51 of Environment Law 03-10 also prohibited any discharge or dumping of used water, or the disposal of waste of whatever nature, in water intended for the recharge of groundwater tables, and in wells, pits and water-drawing galleries², which falls within the policing powers of the President of the Communal People’s Assembly and the Wali (governor) for the preservation of public health.

Likewise, the Water Law, in Article 46, stressed the necessity of protecting aquatic environments from pollution by using the method of prohibition and ban with respect to the following:

- Discharging dirty water, whatever its nature, or pouring it into wells, pits, or galleries where waters meet, springs, and public drinking places;
- Introducing any unhealthy substances into the water facilities intended for water supply³;

Hence, on the basis of the foregoing texts, the Algerian legislator has resorted to absolute prohibition whenever it anticipated the existence of a danger that threatens environmental balance.

2. Relative prohibition: Also known as temporary and partial prohibition, it is lawful because it is defined in terms of time, place and purpose⁴ and is embodied in the prohibition of carrying out certain acts – which may cause harmful effects to the environment in any of its components – except after obtaining a licence to that effect from the competent authorities and in accordance with the conditions and controls determined by the laws and regulations for the protection of the environment⁵.

Accordingly, we note that there is a close relationship between relative prohibition and administrative licensing, and the relationship lies in their being two complementary legal methods, since in relative prohibition the legislator does not make the act prohibited in principle, considering that this prohibition lapses if the applicant’s request satisfies the conditions of the administrative licence.

Examples of such acts falling within relative prohibition include Articles 70 and 71 of Law 03-10, whereby the placing of chemical substances on the market is subject to specific conditions, controls and modalities. In view of the dangers that chemical substances may pose, the competent authority may make the placing of these substances on the market conditional on the producer or importer providing the following elements:

- The components of the preparations placed on the market;
- Samples of the substance or of the preparations that go into the substance;
- Precise numerical data on the quantities of pure or mixed substances that have been placed on the market, published or distributed, according to the various uses;
- All additional information on their effect on humans and the environment.

The prohibition here is therefore contingent upon the provision of the foregoing data⁶.

Likewise, Article 55 of the same Law 03-10 concerns the conditions for the loading of substances and waste intended for dumping at sea, which requires a licence.

And Article 50, which requires that the discharges of discharge installations, when operated, comply with the conditions determined by regulation. The regulation also determines the conditions for regulating or prohibiting flows, runoff, discharge and direct or indirect deposit of waters and substances, and, in general, every act likely to harm the quality of surface, underground or coastal waters ⁷

¹ Amal Kasir, “**The Means Used for Protecting the Environment**” paper presented at a national forum on “The Role of Local Authorities in Protecting the Environment under the New Municipal Law and Wilaya Law”, 3–4 December 2012, Laboratory of Environmental Legal Studies, Faculty of Law and Political Science, 8 May 1945 University, Guelma, p. 130.

² Article 51 of Law 03-10 on environmental protection and sustainable development .

³Article 46 of Law 05-12

⁴ Nawaf Kanaan “**The Role of Administrative Regulation in Protecting the Environment**” an applied study in the United Arab Emirates, Journal of the University of Sharjah for Sharia and Human Sciences, University of Sharjah, Vol. 03, No. 01, 2006 , p. 90.

⁵Majed Ragheb Al-Helou, op. cit., p. 130.

⁶ Articles 70, 71 in detail of Law 03-10

⁷ Article 50 of Law 03-10

Second: The obligation system: One of the legal means used by local authorities in protecting the environment is obliging persons to carry out certain acts. Obligation is the opposite of prohibition, because the latter is an administrative legal measure whereby the carrying out of the activity is prevented, so it is a negative measure, whereas obligation is the necessity of performing the conduct, so it is a positive one¹.

In the field of environmental protection, by the policing measure we mean obliging individuals, bodies and installations to carry out a particular positive act in order to prevent the pollution of the various components of the environment or to protect them, or obliging whoever, through his fault, has caused pollution of the environment to remove the effects of the pollution². Examples of positive acts in the field of environmental protection are that the Algerian legislator obliged individuals, when polluting emissions into the air pose a threat to persons, the environment or property, to take the necessary measures to eliminate or reduce them, and obliged the owners of industrial units to take all measures necessary to reduce, or to cease, the use of substances that cause depletion of the ozone layer³.

Section Two: Administrative and Criminal Sanctions as a Mechanism of Environmental Regulation

As for the second section, we devoted it to the sanctions that the administration imposes on every violator who commits an act that destroys the environment, and they are divided into (administrative sanctions), which we addressed in the first subsection, such as the penalty of the administrative fine, which is considered one of the most frequently used penalties, as well as the mechanism of suspending the activity of the person causing the environmental damage or withdrawing his licence. The administration may also impose restrictions on the use of certain materials or machines that pose a danger to the environment, narrowing the scope of their use or prohibiting them. As for the second subsection, it comprised (criminal sanctions), which are considered the original form of punishment. Most legislations, including the Algerian legislator, have provided for texts contained in the Penal Code as well as special texts such as Law 03/10 on environmental protection within the framework of sustainable development, so that the criminal sanction takes the form of either imprisonment or a financial penalty (fine), or both penalties together, and in other cases takes the form of complementary or accessory measures.

Subsection One: Administrative Sanctions against Acts Harmful to the Environment

Environmental administrative sanctions are deterrent penalties imposed by the competent administrative authority by means of administrative decisions that are subject to

appeal before the competent judicial bodies, on the basis of existing legislative texts and regulations, against activities that pollute

the environment whose owners do not comply with the precautionary and preventive measures provided for in the legislation on the environment, and they are decided after the damage has occurred, because the administration aims through them to remedy the disruptions that have occurred and to restore the situation to what it was. They therefore differ from those policing measures taken by the administration to prevent damage, which aim at protecting environmental public order by taking anticipatory, preventive and non-deterrent measures.

In general, deterrent administrative sanctions in the field of environmental protection in Algerian legislation range in severity from the mildest to the most severe, namely: formal notice or warning, then temporary suspension of the activity, and finally withdrawal of the licence and definitive prohibition of the activity, which we address in the following paragraphs:

1. Written formal notice: Written formal notice, or notification, is merely a warning or reminder from the administration concerned, after an investigation or inspection by the competent technical services, of the necessity of correcting the disruptions that have appeared as a result of the operator's breach of the technical conditions and provisions, which are likely to harm the environment, meaning that the activity of the installation or establishment has become non-compliant with the standards legally in force for the

¹ Boulqawas Ibtissam, op. cit., p. 12.

² Nawaf Kanaan, op. cit., p. 92.

³ Article 46 of Law 03-10

protection of the environment. The notice therefore includes a statement of the seriousness of the violation committed and of the sanction that may follow in the event of non-compliance, as well as the determination of the time period sufficient for removing the established dangers and damages¹

Although written formal notice is a method of ex post administrative control, it is no more than a notification from the administration to the operator to take the measures necessary to protect the environment and to remedy and address the negative effects of his activity within the deadlines set by the administration, before more stringent measures are taken, such as closure or cancellation of the licence, among others.

The formal notice or notification system is considered the mildest sanction that the administration imposes on those who violate the standards legally in force for the protection of the environment, because it does not affect the activity of the installation or establishment; rather, the operator continues to carry out his activity during the deadlines set for him, provided that he complies with the elimination of the risks and damages. For this reason, the administration often sends its notices repeatedly in order to push the violator to remedy the recorded disruptions before applying other sanctions that may result in the suspension of the activity or the closure of the installation and the establishment as a whole.

Among the applications of the formal notice system in Algerian legislation is what is stipulated in Article 25, paragraph 1, of Law 03-01 on environmental protection, which states: "When the operation of an installation not included in the list of classified installations gives rise to dangers or damages affecting the interests mentioned in Article 18 above, and on the basis of a report by the environmental services, the Wali (governor) shall serve notice on the operator and set a deadline for him to take the necessary measures to eliminate the established dangers and damages..."

2. Administrative fine: It is a sum of money imposed by the administrative authority on the perpetrator of the pollution offence, and it is considered the most frequently used sanction because it is distinguished by certain characteristics

A. In terms of its form: It may be a sum assessed by the administration at its own discretion, or it may take a fixed form such as fines for traffic offences, or it may consist in an increase in fees and taxes on certain wrongful behaviours

B. In terms of amount : It may be fixed, or the administration may be left the power to determine it

C. In terms of the authority imposing it : This authority may be a specific administrative authority such as the minister, for example, or another body competent in the protection of the environment, or a special committee formed in accordance with the law

D. In terms of its general provisions: Which conform to general criminal law, such as the principle of criminal legality

E. In terms of appeal against the decision imposing the fine : The decision may be appealed before the ordinary judiciary ²

3. Temporary suspension of the activity: When the operator fails to correct the disruptions that have appeared in his activity despite the notices addressed to him, the administration resorts to a more severe sanction, namely suspension of the activity until the necessary remedial measures are taken.

Although the administration, in its notices, has set deadlines for remedying the damage, the activity of the installation or establishment under temporary prohibition remains suspended on condition of compliance with the technical measures and requirements demanded by the administration, and this period may be long or short.

Temporary prohibition of the activity is not considered arbitrary on the part of the administration, despite the losses and damages incurred by the operator,

¹ Rihani Amina, Administrative Protection of the Environment in Algeria, doctoral dissertation in the field of Law and Political Science, specialisation in Administrative Activity and Administrative Liability, Mohamed Khider University, Biskra, Algeria, 2015-2016, p. 231

²Ahmed Lakhal, op. cit., p. 210

as long as the granting of the licence was originally conditional on respect for the legal conditions and measures relating to protection.

4. Withdrawal of the licence: The licensing system is one of the most important means of prior administrative control, owing to the advance protection of the environment that it achieves, and it is considered one of the powers of administrative regulation that the administration exercises over freedoms with great caution, since the administration has no discretionary power in granting the licence as long as the conditions approved and stipulated by law are met.

Although the administration's powers in granting licences are bound, its powers in withdrawing or cancelling them are broad,

in view of the broad power it enjoys in partially or totally prohibiting any development activity if it assesses that it poses a real threat to the environment. Therefore, environmental legislation permits the withdrawal or cancellation of licences if the operator violates the technical conditions and the precautionary measures for the protection of the environment.

5. Restriction on the use of certain materials : Those that pose a danger to the environment and to humans, and this measure is more preventive than deterrent

Subsection Two: Criminal Sanctions against Acts Harmful to the Environment

The sanctions prescribed to confront offences committed against the environment are in line with what is contained in the texts of the Penal Code. Thus, the penal texts in the field of environmental protection have established penalties as sanctions for the offences committed; these penalties may be principal, accessory or complementary, or both together, and alongside these penalties, environmental protection laws have included certain precautionary measures, also called security measures, with a preventive aim¹.

A. Principal penalties for environmental offences: Principal penalties are divided into four types: the death penalty, criminal imprisonment, imprisonment, and the fine, and these penalties are applied according to the criminal dangerousness of the offender and the type of environmental offence committed. As for the death penalty, the Algerian legislator provided: "Any ship captain who deliberately dumps radioactive waste in waters belonging to the national space shall be punished by death"; likewise, we find that the Penal Code provided for the death penalty in the case of assault on the environment and the introduction of a toxic substance into, or its leakage in, the air, the subsoil or the water, which would endanger the health of humans, animals or the natural environment.

As for the penalty of criminal imprisonment, it takes two forms, life imprisonment and temporary imprisonment, as the legislator provided in Article 66 of Law No. 01/19², and accordingly criminal imprisonment, as a custodial penalty, is considered one of the most effective penalties in the protection of the environment because it is harder on the soul than the fine.

As for the penalty of imprisonment, most penalties for environmental offences in the special legislation on environmental protection have been made by the legislator subject to the penalty of imprisonment, because most environmental offences are petty offences and misdemeanours, for example Water Law 05/12.³

As for the penalty of the fine, it is likewise considered one of the most effective penalties, because most environmental offenders are economic investors who are greatly affected by this type of penalty, in addition to the fact that most environmental offences are offences resulting from industrial activities aimed

¹ Nour Eddine Hindawi, *Criminal Protection of the Environment*, Dar Al-Nahda Al-Arabiya, 1985 , p. 183

² Article 66 of Law No. 01/19 provides: "Anyone who imports hazardous waste, or exports it, or works to arrange its transit shall be punished by criminal imprisonment of five to eight years and by a fine of one million dinars to five million DA, or by one of these two penalties only

³ It is found that Article 169 thereof provides: "Anyone who obstructs the free flow of surface waters in the courses of wadis, leading to prejudice to the stability of the banks and public facilities, shall be punished by imprisonment from two months to six months, the penalty being doubled in case of recidivism

at achieving an economic interest; indeed, the environmental damage would not have come into existence but for the abuse in pursuing this interest. Referring to the text of Article 79 thereof, which provides: "A fine of 1000 to 3000 DA shall be imposed on anyone who clears land without a permit, and a fine of 1000 to 10000 DA per hectare shall be imposed on anyone who clears land in the national forest domain ¹."

B. Complementary penalties: These are penalties that complement the principal penalties and play an effective role in confronting environmental delinquency. Among these penalties are: legal interdiction, restriction of residence, prohibition from residing, deprivation of the exercise of certain national rights, confiscation of property, and publication of the judgment; this applies to the natural person. As for the legal (moral) person, the Algerian legislator provided in Article 18 bis of the Penal Code that the following apply: dissolution of the legal person, closure of the establishment or of one of its branches for a period not exceeding five years, exclusion from public procurement, prohibition from practising one or several professional or social activities, either permanently or for a period not exceeding five years, confiscation of the thing that was used in committing the offence or resulted from it, publication and posting of the conviction judgment, and withdrawal of the licence to practise the profession.

C. Accessory penalties: For this type of penalty to apply, there must be an environmental felony, and as is known in environmental legislation, most offences are characterised as misdemeanours and petty offences; however, this type of penalty can be applied to the felonies punishable under Article 87 bis of the Penal Code and Article 66 of Law No. 01/19 on waste management and disposal.

Conclusion

The Algerian legislator, like other legislations, has taken up the duty of environmental protection and the protection of human rights in a suitable environment, which is considered one of the modern solidarity rights that have linked the environment with the human being within the framework of the principles of sustainable development. It therefore enacted a set of general and special texts as an indispensable legal reference for guiding and regulating the work of the administrative authorities, as a safeguard for the environment and for the human being and as a deterrent to any attempt at waste that may turn into an environmental offence. This, in turn, has led the sanction to be divided into penal sanctions and other regulatory ones imposed by the administration to halt any type of these negative activities, whether a petty offence, a misdemeanour or a felony, and it prescribed for each act the penalty appropriate to its gravity.

However, compared with other legislations, the Algerian legislator should have imposed a higher level of strictness, for the achievement of which we have deemed it appropriate to put forward some proposals, as follows

Allowing the administrative bodies, whether central or local authorities, to play a more important role at the national level and, at the same time, making them part of the international protection of the environment.

This strictness can only be achieved through greater tightening of the legislative and regulatory texts and the activation of oversight of the extent to which the bodies empowered with protection comply with their legal powers.

In addition, enriching the environmental legislative system with texts that regulate acts prejudicial to the environment and environmental offences and that serve as the legal reference, so as to leave no room for individual actions or for the administration's authority at the expense of the legal value of the legislative text.

Furthermore, enriching and activating penalties in theory and in practice, so as to make deterrence an impregnable barrier against the commission of environmental offences.

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